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Council Proceedings

Official Report

Bengal Legislative Council

Thirty-ninth Session, 1932

5th to 7th September, 1932

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2. Public Works.

The Hon'ble Mr. Khwaja Nazimuddin, C.I.E., in charge of the following portfolios:—

1. Education.
2. Registration.

The Hon'ble Mr. Bijoy Prasad Singh Roy, in charge of the portfolios:—

1. Local Self-Government.
2. Excise.

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DEPUTY PRESIDENT.

MR. RAZAUR RAHMAN KHAN, B.L.

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2. Khan Bahadur Maulvi AZIZUL HAQUE.
3. Mr. W. H. THOMPSON.
4. Mr. SYAMAPROSAD MOOKERJEE, Bar.-at-Law.

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Assistant Secretary to the Council—[Vacant.]

BENGAL LEGISLATIVE COUNCIL

ALPHABETICAL LIST OF MEMBERS.

A

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Ali, Maulvi Hassan. [Dinajpur (Muhammadan).]
Ali, Maulvi Syed Nausher. [Jessore South (Muhammadan).]
Ali, Mr. Altaf. [Bogra (Muhammadan).]
Armstrong, Mr. W. L. [Presidency and Burdwan (European).]
Austin, Mr. J. M. (Bengal Chamber of Commerce.)

B

Baksh, Maulvi Shaikh Rahim. [Hooghly *cum* Howrah Municipal (Muhammadan).]
Baksh, Maulvi Syed Majid. [Jessore North (Muhammadan).]
Bal, Babu Lalit Kumar. [Bakarganj South (Non-Muhammadan).]
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Burn, Mr. H. H. (Bengal Chamber of Commerce.)

C

Chatterjee, Mr. B. C., Bar.-at-Law. [Bakarganj North (Non-Muhammadan).]
Chaudhuri, Babu Kishori Mohan. [Rajshahi (Non-Muhammadan).]
Chaudhuri, Babu Siddheswar. (Expert, Nominated.)

Chaudhuri, Dr. Jogendra Chandra. [Bogra *cum* Pabna (Non-Muhammadan).]
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Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman. (Nominated Non-official.)
Chaudhuri, Maulvi Syed Osman Haider. [Tippera North (Muhammadan).]
Choudhury, Maulvi Nural Absar. [Chittagong North (Muhammadan).]
Chowdhury, Haji Badi Ahmed. [Chittagong South (Muhammadan).]
Chowdhury, Maulvi Abdul Ghani, B.L. [Dacca West Rural (Muhammadan).]
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Cooper, Mr. C. G. (Indian Jute Mills Association.)

D

Das, Rai Bahadur Kamini Kumar, M.B.E. [Chittagong (Non-Muhammadan).]
Das, Rai Bahadur Satyendra Kumar. [Dacca City (Non-Muhammadan).]
Dutt, Rai Bahadur Dr. Haridhan. [Calcutta Central (Non-Muhammadan).]

E

Eusufji, Maulvi Nur Rahman Khan. [Mymensingh South-West (Muhammadan).]

F

Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur. [Minister.] [Tippera South (Muhammadan).]
Fawcus, Mr. L. R. (Nominated Official.)
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Forrester, Mr. J. Campbell. [Presidency and Burdwan (European).]

G

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Guha, Mr. P. N. (Nominated Non-official.)
Gupta, Mr. J. N., C.I.E., M.B.E. [Bankura West (Non-Muhammadan).]

H

Hakim, Maulvi Abdul. [Mymensingh Central (Muhammadan).]
Haque, Khan Bahadur Maulvi Azizul. [Nadia (Muhammadan).]
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Huq, Mr. A. K. Fazl-ul. [Bakarganj West (Muhammadan).]
Hussain, Maulvi Latafat. (Nominated Non-official.)

K

Karim, Maulvi Abdul. [Burdwan Division South (Muhammadan).]
Kasem, Maulvi Abul. [Burdwan Division North (Muhammadan).]
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Khan, Maulvi Tamizuddin. [Faridpur South (Muhammadan).]
*Khan, Mr. Razaur Rahman, B.L. [Dacca East Rural (Muhammadan).]

L

Lal Muhammad, Haji. [Rajshahi South (Muhammadan).]
Law, Mr. Surendra Nath. (Bengal National Chamber of Commerce.)
Leeson, Mr. G. W. (Bengal Chamber of Commerce.)

M

Maguire, Mr. L. T. (Anglo-Indian.)
Maiti, Mr. R. [Midnapore South (Non-Muhammadan).]

*Deputy President, Bengal Legislative Council.

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Mullick, Mr. Mukunda Behary. (Nominated Non-official.)

N

Nag, Babu Suk Lal. [Khulna (Non-Muhammadan).]
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O

Ordish, Mr. J. E. [Dacca and Chittagong (European).]

P

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Philpot, Mr. H. C. V. (Nominated Official.)
Poddar, Mr. Ananda Mohan. (Bengal Mahajan Sabha.)
Poddar, Seth Hunuman Prosad. [Calcutta West (Non-Muhammadan).]

R

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Rahman, Maulvi Azizur. [Mymensingh North-West (Muhammadan).]
Rahman, Mr. A. F. [Rangpur West (Muhammadan).]
Rahman, Mr. A. F. M. Abdur-. [24-Parganas Rural (Muhammadan).]

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Roy, Mr. Saileswar Singh. [Burdwan North (Non-Muhammadan).]
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Roy, the Honble Mr. Bijoy Prasad Singh. [Minister.)] [Burdwan South (Non-Muhammadan).]
Roy Choudhuri, Babu Hem Chandra. [Noakhali (Non-Muhammadan).]

S

Saadatullah, Maulvi Muhammad. [24-Parganas Municipal (Muhammadan).]
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Samad, Maulvi Abdus. [Murshidabad (Muhammadan).]
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Sarker, Rai Sahib Rebati Mohan. (Nominated Non-official.)
Sen, Mr. B. R. (Nominated Official.)
Sen, Mr. Girish Chandra. (Expert, Nominated.)
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T

Thomas, Mr. M. P. (Indian Jute Mills Association.)
Thompson, Mr. W. H. (Bengal Chamber of Commerce.)
Townend, Mr. H. P. V. (Nominated Official.)
Twynam, Mr. H. J. (Nominated Official.)

W

Wilkinson, Mr. H. R., C.I.E. (Nominated Official.)
Woodhead, the Hon'ble Mr. J. A., C.I.E. (Member, Executive Council.)
Wordsworth, Mr. W. C. (Bengal Chamber of Commerce.)

THE BENGAL LEGISLATIVE COUNCIL PROCEEDINGS

(Official Report of the Thirty-ninth Session.)

Volume XXXIX—No. 6.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Monday, the 5th September, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 111 nominated and elected members.

STARRED QUESTIONS.

(to which oral answers were given).

Newly formed railway land at Faridpur.

***204. Rai Sahib AKSHOY KUMAR SEN:** (*a*) Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state whether it is a fact—

(*i*) that a strip of original railway land about 1½ miles in length and 100 feet or so in breadth has reformed in its original site at Faridpur about 2 years ago;

(*ii*) that the same is fit for cultivation; and

(*iii*) that it has been left to be used by trespassers?

(*b*) Is the Hon'ble Member considering the desirability of drawing the attention of the railway authorities to this with a view to leasing out the land or disposing of it otherwise in the near future?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) (*i*) Yes.

(*ii*) Yes, but this land remains under water during the rainy season.

(*iii*) No.

(*b*) The matter is being examined by the railway authorities, and if the land is not required for the extension of the existing line to a new station and ghat site and if it be found advantageous, arrangements will be made for its disposal.

Landlord's transfer fees.

*295. **Srijut TAJ BAHADUR SINGH:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state whether it is a fact that landlord's transfer fees are collected on the sale of mortgage decrees in districts different from those in which the properties lie?

(*b*) Is the Hon'ble Member aware that a co-sharer landlord is inconvenienced in getting the money from a district in which he has no property or with which he is not in touch?

(*c*) Are the Government considering the desirability of taking steps for the transfer of the amount of the landlord's fee to the district in which the property lies or the sending of the amount to the landlords by money-order on their making an application to the Collector of the district in which the money is deposited?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) According to the provisions of the Bengal Tenancy Act, when a mortgage of a holding of an occupancy raiyat is foreclosed or the holding is sold in execution of a decree, the court in which the proceedings are conducted realises the transfer fee.

(*b*) Government have no specific information, but it is possible that in some cases there may be some inconvenience.

(*c*) As the inconvenience, if any, is caused by the provisions of the Bengal Tenancy Act, Government do not consider that it is necessary to take any steps of the nature indicated. The co-sharer landlords may take payment of the transfer fee from the Collector of the district in which the fee is realised.

Babu MEM CHANDRA ROY CHOUDHURI: Will the Hon'ble Member be pleased to state whether under the provisions of the Bengal Tenancy Act, it is not possible for the court realising the landlord's fees to transfer the amount to the district board within which the fee is realised?

The Hon'ble Sir PROVASH CHUNDER MITTER: That is not within the meaning of the language of the Act.

Presidency General Hospital and T. B. patients.

*208. **Mr. E. T. McCLUSKIE:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state how many patients suffering from tuberculosis were turned out of the Presidency Hospital from April, 1931, to May, 1932?

(*b*) Why were they turned out?

(*c*) What arrangements were made for their care and attention after leaving the hospital?

(*d*) What has become of these patients?

(*e*) Have the Government considered whether the turning out of these patients will help to infect others?

(*f*) What arrangements, if any, are in force to prevent infection from these patients?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (*a*) Nineteen were asked to leave.

(*b*) Several of these patients were at first admitted with bronchitis, and tuberculosis was diagnosed afterwards. As there is no permanent arrangement for tuberculosis patients in the Presidency General Hospital, they were accommodated temporarily in extra beds and they had to be discharged with the closing down of these beds, which were in excess of the sanctioned number in the Presidency General Hospital.

(*c*) and (*d*) Government have no official information; but it is understood that some of them have been admitted to the Tubercular Hospital at Jadabpore.

(*e*) and (*f*) There are so many tubercular cases in Calcutta that the addition of 19 more is not likely to affect the situation.

Rai Bahadur Dr. HARIDHAN DUTT: Will the Hon'ble Minister kindly state whether hospitals are meant for the treatment of sick and ill persons and not for the incurables, who are generally referred to the refuge?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Yes, that is so.

Rai Bahadur Dr. HARIDHAN DUTT: Will the Hon'ble Minister be pleased to state whether Calcutta possesses any institution for the treatment of tuberculosis cases?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: There is a ward in the Medical College Hospitals where only a few patients are accommodated. And there is another, viz., the Jadavpur Tubercular Hospital

Rai Bahadur Dr. HARIDHAN DUTT: Will the Hon'ble Minister be pleased to state what is the number of such patients in the Medical College Hospital?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I want notice.

Mr. J. CAMPBELL FORRESTER: Is the Hon'ble Minister aware that about 12 months ago he promised that something would be done with regard to this question of tuberculosis? If so, will he state the reasons why nothing has been done?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I never gave any such promise.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Minister be pleased to state whether the Calcutta Corporation pay any contribution to the Jadabpur Tuberculosis Hospital?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I believe they pay something.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Minister be pleased to state why not steps were taken to send these people to the Calcutta Medical College Hospital?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Evidently there was no room.

Dacca Agricultural School and teaching of Anglo-Indians.

*207. **Mr. E. T. McCLUSKIE:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state what arrangements are there for teaching the Anglo-Indian lads at the Dacca Agricultural College?

(*b*) If there are no arrangements what are the reasons?

MINISTER in charge of AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab K. G. M. Farequi, Khan Bahadur): (*a*) and (*b*) There is no Agricultural College at Dacca but only a Secondary Agricultural School which is open to Anglo-Indians if they wish to apply for admission and satisfy the necessary conditions.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Minister be pleased to state what are the necessary conditions that Anglo-Indian boys must fulfil before they can take admission into the agricultural school?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: I want notice.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Minister be pleased to state whether it is not to the interest of the Anglo-Indian community that Anglo-Indian lads should be trained as practical agriculturists in view of the unemployment among them?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: That is a matter of opinion.

Kurigaon local board election.

***208. Mr. P. BANERJI:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether it is a fact that the assistant presiding officer at the Teesta centre in the Lalmanirhat constituency of the Kurigaon local board did not record the votes of over one thousand electors coming in time?

(*b*) If the answer to (*a*) is in the affirmative, when did the assistant presiding officer at Teesta leave the polling centre and why?

(*c*) Is it a fact that the assistant presiding officer sent a telegram to the Subdivisional Officer and also to the presiding officer at Lalmanirhat stating the ground of his not recording the votes of the electors present?

(*d*) Are the Government considering the desirability of allowing the electors an opportunity of electing their member?

(*e*) If so, will the Hon'ble Minister be pleased to state whether the election will be confined to one centre at Teesta or at the other two centres also where polling took place without any disturbance?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) The enclosures gave way owing to a rush of persons. It cannot be said how many voters were there.

(*b*) About 5 p.m.: because he could not proceed with the election.

(*c*) Yes. He sent a telegram to the Subdivisional Officer only.

(*d*) and (*e*) It has been decided to hold a fresh poll at Teesta.

Kazi EMDADUL HOQUE: Will the Hon'ble Minister be pleased to state whether it is not a fact that in the telegram referred to in answer (*c*) it was mentioned that the votes of over 1,000 electors could not be taken on account of the congestion of voters?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Government have had no information on the point.

Kazi EMDADUL HOQUE: Will the Hon'ble Minister be pleased to state whether the same difficulty will not arise if votes are taken only in one centre, namely, at Teesta?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: That is more than I can say.

Kurigaon local board election.

*209. **Kazi EMDADUL HOQUE:** (*a*) With reference to the reply given to unstarred question No. 26 of the 11th August, 1932, is the Hon'ble Minister in charge of the Local Self-Government Department aware that the assistant presiding officer at the Teesta centre of the Lalmanirhat local board constituency could not finish the recording of the votes on account of the congestion of voters and that even according to the said officer the votes of over one thousand voters were not recorded although they came in time?

(*b*) If so, will the Government be pleased to give the electors a chance to elect their own representative by ordering a fresh election?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) and (*b*) The member is referred to the replies given to previous starred question put by Mr. P. Banerji.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Minister be pleased to state whether any steps were taken by the Local Self-Government Department to direct the District Magistrate to avoid this congestion of voters?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: We can leave the matter to the District Magistrate; it is for him to make arrangements.

Kazi EMDADUL HOQUE: Will the Hon'ble Minister be pleased to state whether Government will be willing to order more than one centre?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: If necessary, the District Magistrate will arrange for a few more centres.

Tax for a lorry maintained by Bogra district board.

*210. **Dr. JOGENDRA CHANDRA CHAUDHURI:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether district boards and municipalities in the mufassal have been exempted from paying taxes on motor vehicles maintained and used for their own purposes?

(*b*) If the answer to (*a*) is in the affirmative, is the Hon'ble Minister aware that such taxes have been realised from the district board of Bogra for a lorry which is maintained by that Board for their own use?

(*c*) Will the Hon'ble Minister be pleased to state whether it was contemplated at the time when the Bengal Motor Vehicles Act was passed last time to exempt the district boards and municipalities in such cases?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) No, except in the cases covered by clauses (*d*), (*f*) and (*g*) of rule 26 of the Motor Vehicles Tax Rules.

(*b*) Does not arise.

(*c*) No.

Babu Ambica Charan Chakrabarti, an undertrial prisoner.

*211. **Mr. SYAMAPROSAD MOOKERJEE:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state when Babu Ambica Charan Chakrabarti was arrested in connection with the Chittagong Armoury Raid case?

(*b*) Was he ever produced before any Magistrate; if so, before whom, when and where?

(*c*) Has he been regarded as an undertrial prisoner since his arrest?

(*d*) Is it a fact that he had been segregated all through the period or a major portion of it, in a punishment cell?

(*e*) What are the reasons for the delay in placing him before a competent court for trial?

(*f*) When do Government expect the trial to take place?

(*g*) Is it a fact that he is suffering from slow fever and has lost considerably in weight?

(*h*) Is he suffering from tuberculosis?

(*i*) What steps have Government taken for his proper treatment?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) 9th October, 1930.

(*b*) Yes, before the District Magistrate, Chittagong, on the 10th October, 1930.

(*c*) Yes.

(*d*) He has been segregated under the usual conditions because he is considered to be a dangerous prisoner and also because when first arrested he was suffering from tuberculosis.

(*e*) He was arrested after the commencement of the trial of the Chittagong Armoury Raid case. It was impracticable to put him on his trial while that trial was in progress. After its conclusion, the difficulty explained in the note on clause 2 of the Statement of Objects and Reasons attached to the Bengal Criminal Law Second Amendment Bill arose, and legislation to overcome the difficulty became necessary.

(*f*) A definite date cannot yet be fixed.

(*g*) No, he has gained 49 lbs. in weight.

(*h*) He is reported to have recovered from tuberculosis.

(*i*) Does not arise.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Member be pleased to state if the prisoner is still kept segregated?

The Hon'ble Mr. R. N. REID: I think so.

Mr. SYAMAPROSAD MOOKERJEE: Is the Hon'ble Member aware that the Magistrate of Chittagong in letter No. 624 C., dated the 10th October, 1930, withdrew the order of segregation and communicated the fact to the prisoner?

The Hon'ble Mr. R. N. REID: I am not aware, Sir.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Member be pleased to inquire into the matter?

The Hon'ble Mr. R. N. REID: Certainly, if the member wants information on the point.

Babu JITENDRALAL BANNERJEE: Did the prisoner ever make any attempt to escape from police custody or break jail rules?

The Hon'ble Mr. R. N. REID: I do not know.

Babu JITENDRALAL BANNERJEE: Was he ever guilty of any breach of jail discipline?

The Hon'ble Mr. R. N REID: Not that I know of.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Member be pleased to state why he was then considered to be a dangerous character?

The Hon'ble Mr. R. N. REID: Owing to the crime that he was accused of.

Mr. SHANTI SHEKHARESWAR RAY: Is the Hon'ble Member aware of any other accused persons being detained in jail for such a long period of time without being brought to trial?

The Hon'ble Mr. R. N. REID: I cannot say.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Member be pleased to give us any information as to the jail where this prisoner is now detained?

The Hon'ble Mr. R. N. REID: I am afraid I cannot answer that question.

Babu JITENDRALAL BANNERJEE: Is the Hon'ble Member unaware of it or refuses to answer my question?

The Hon'ble Mr. R. N. REID: I cannot answer, Sir, because I do not know.

Dr. NARESH CHANDRA SEN GUPTA: Is the Hon'ble Member aware of any precedent where a prisoner has not been brought up for trial until a special law is passed for that purpose?

The Hon'ble Mr. R. N. REID: My knowledge of history does not go as far as that.

Rate of interest decreed in suits for arrears of rent in Mymensingh.

***212. Maulvi ABDUL HAKIM:** (*a*) Is the Hon'ble Member in charge of the Judicial Department aware—

(*i*) that extreme economic distress owing to the low prices of agricultural products began in Bengal from the year 1930; and

(*ii*) such economic distress still prevails in the country?

(*b*) Will the Hon'ble Member be pleased to state whether it is a fact that compensation at the rate of 25 per cent. was decreed in suits for arrears of rent in munsif's courts at Mymensingh in the years 1930 and 1931?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) (*i*) and (*ii*) There has been economic distress in Bengal since 1930 on account of low prices.

(*b*) Damages at 25 per cent. on arrears of rents were allowed in a number of *ex-parte* cases when the rents were proved to be in arrears for 4 years without justification.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state whether there was any evidence in this case that rent was held in arrears without justification or this was taken as a matter of presumption?

The Hon'ble Mr. R. N. REID: No; they were in arrears without justification.

Khan Bahadur Maulvi AZIZUL HAQUE: In view of the widespread congestion of those areas does the Hon'ble Member contemplate the issue of instructions so that the maximum increase of 25 per cent. be not allowed?

The Hon'ble Mr. R. N. REID: Government is not in a position to issue such instructions.

Maulvi ABDUL HAKIM: Is it not the practice to award damages in all such cases, whether *ex parte* or decreed?

The Hon'ble Mr. R. N. REID: I have no nformation to that effect.

UNSTARRED QUESTIONS

(answers to which were laid on the table).

Anti-malarial Co-operative Societies in Bankura and Burdwan.

169. Babu SATYA KINKAR SAHANA: (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware—

(*i*) that the thanas of Sonamukhi, Patrasayer, Indas and Kotalpur in the district of Bankura and the thanas of Raina, Khandaghosh and Galsi in the district of Burdwan are very malarious; and

(*ii*) that the people there are generally poor and ignorant of the rules of hygiene?

(*b*) If the answer to (*a*) (*i*) is in the affirmative, will the Hon'ble Minister be pleased to state—

(*i*) how many anti-malarial societies have been formed in the said thanas;

(*ii*) how many small charitable dispensaries have been started by the union boards in these thanas; and

(*iii*) what steps, if any, the Government have taken or are taking to encourage the starting of such societies and dispensaries and to propagate among the people the efficaciousness of such institutions in fighting out malaria?

The Hon'ble Mr. BIJOY PRASAD SINCH ROY: (*a*) (*i*) and (*ii*) Yes.

(*b*) (*i*) A statement is laid on the table.

(*ii*) None.

(*iii*) No special steps are being taken as regards these thanas. Conditions in them are not exceptionally bad. In any case it is foreign to the spirit of the co-operative movement for Government to take the initiative in such matters.

Statement referred to in the reply to clause (*b*) (*i*) *of unstarred question No. 106.*

ANTI-MALARIAL SOCIETIES.

Thanas.	Registered Societies.	Unregistered Societies.
Bankura.		
Sonamukhi	Nil	Nil.
Patrasayer	1	Nil.
Indas	Nil	Nil.
Kotalpur	Nil	Nil.
Burdwan.		
Raina	7	5
Khandaghosh	14	5
Galsi	5	5

Process-servers of Bakarganj.

107. Maulvi SYED OSMAN HAIDER CHAUDHURI: Is the Hon'ble Member in charge of the Judicial Department aware that there are some process-servers in the civil courts of the Bakarganj district who do the work of orderlies but are counted as process-servers?

The Hon'ble Mr. R. N. REID: Three men who were promoted from orderly to process-servers are working as orderlies.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state what sort of promotion these men have got—from process-servers to orderlies?

The Hon'ble Mr. R. N. REID: Process-servers are superior in rank to orderlies and get higher pay.

Mr. NARENDRA KUMAR BASU: But they are doing menials' work as orderlies.

(No reply.)

GOVERNMENT BILL.

The Bengal Suppression of Terrorist Outrages Bill, 1932.

[The discussion on the Bengal Suppression of Terrorist Outrages Bill, 1932, was then resumed.]

Mr. P. BANERJI: I beg to move that clause 3 (2) be omitted. My reason for doing so is that by the passing of clause 3 (*1*), the safety of the civil resisters has been altogether taken away, so that any officer of Government may arrest any person whom on reasonable grounds he suspects to be acting or about to act in a manner prejudicial to the public safety and may arrest and detain him for a period not exceeding 24 hours. Here sir, it is contemplated that in order to effect such arrest any means may be used. The Select Committee have not been able to improve this draft clause, for the arrest of which person has not been definitely mentioned. Arrest of terrorists no doubt, but it should have been definitely mentioned. If the Hon'ble Member is prepared to accept an amendment like this—to effect the arrest of the terrorists—then it is something, otherwise the safety of civil resisters and other persons is endangered. Therefore I propose that clause 3 (2) be omitted.

3 p.m.

Dr. NARESH CHANDRA SEN GUPTA: Sir, the other day I put a question to the Hon'ble Member which unfortunately he has not answered. What do these words "use any means that may be necessary" imply? It will be noticed that this expression is not qualified by anything whatsoever—any means, legal or illegal, forcible or peaceful or otherwise. Well, the question that I put to the Hon'ble

Member was, would it include a case like this: when a person coming under sub-clause (*1*) has gone into hiding and is being pursued, would the officer who was pursuing him be justified in setting the house of that person on fire in order to bring him out of hiding, or of maltreating the members of his family. I am sure that if the Hon'ble Member chooses to answer this question he would say that it does not; but if it does not, I ask whether there is anything in this clause to show that it does not. Supposing a police officer did use such means for the purpose of effecting an arrest, whether there is anything in this clause under which it can be said that the action of that police officer showed that he acted beyond his authority. These are the questions which I hope the Hon'ble Member will be pleased to answer.

The Hon'ble Mr. R. N. REID: Sir, I beg to oppose this amendment. This clause is intended to protect the officers who happen to make such arrests and in doing so may have to use force in dealing with desperate characters. I may add that this clause goes little further, if any, than sub-section (2) of section 46 of the Criminal Procedure Code which says: "If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police officer or other person may use all means necessary to effect the arrest." Well, Sir, to my mind there is very little difference between this sub-clause and the sub-section in the Criminal Procedure Code which I have just quoted. I do not think that it is an unreasonable provision to insert in the Bill, and I would therefore oppose the amendment.

The motion of Mr. P. Banerji was then put and lost.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, I beg to move that in clause 3 (*2*), line 2, after the word "means" the word "lawful" be inserted.

I have just heard what has fallen from the Hon'ble Home Member. He has pointed out that the portion which I want to amend by the insertion of the word "lawful" has been taken practically from what exists in the Criminal Procedure Code. In spite of that I am sorry I am not convinced. What I understand by the word "any means" is that it may be either lawful means or unlawful means. If unlawful means are to be adopted and justified in such cases, why not ask the legislature to clearly put down "use any lawful or unlawful means" instead of keeping it equivocal. But am I to understand that the Hon'ble Home Member justifies even unlawful means being taken in cases where the police have to deal with the suspected terrorists. If that be in his mind he should ask the legislature to lay down that in such cases the police would be entitled to use all means, legal or illegal, lawful or unlawful. But I do not think the legislature can

advocate the use of any means except what is lawful. Whatever the Hon'ble Member or any advocate of this legislation might say, certainly this Council cannot assent to anything illegal or unlawful. So to make the position clear, I appeal to the Hon'ble Member again—let it be laid down that only lawful means would be permitted and nothing else. If however the Government think that in such extraordinary circumstances the police would be entitled to use even unlawful means, let that be put down here so that there may be no misunderstanding. That is my reason for asking the Government to make the position clearer by explicitly stating that what means should be used. Otherwise, I fear maltreatment is bound to result. In the police in this country there may be some who may take advantage of the words "any means" and may think that they are entitled to use any means legal or illegal, lawful or unlawful. I hope that my amendment will find support in this House.

Mr. ANANDA MOHAN PODDAR: Sir, I beg to move that after clause 3 (2) the following proviso be added, namely:—

> "Provided that in effecting the arrest the officer shall not cause any inconvenience or do any mischief to the members of the public."

Sir, by this clause very great arbitrary power is given to the police or any other person authorised by the Government. The officer is given a very wide power to effect the arrest, he is allowed to use any means for the purpose. It may be that he would use firearms when effecting the arrest. Sir, this may cause great inconvenience to the members of the public. The proposed proviso is meant for giving a check in using such means. The officer should be particularly careful that no inconvenience is caused to any innocent person. Sir, the procedure to be followed in effecting arrest of a suspicious person is laid down in the Criminal Procedure Code. The principle laid down there should be followed in every case. If instead any means is allowed to be used, there is every likelihood of the arbitrary powers being abused. Supposing an officer has got to use firearms—if he is not checked he may use it indiscriminately and injure innocent persons and even kill them. Instances of such incidents are not wanting. Under the circumstances, I move that the proviso should be added to the clause in order to give a check to the officer.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, this clause runs as follows:—

> "An officer making an arrest under this section, may in so doing, use any means that may be necessary *to effect the arrest.*"

To effect the arrest the officer-in-charge—presumably the police—is empowered to use *any means*. It is beautifully vague.

It is a recent history, Sir, what *means*, sometimes the police, in some notable cases, adopted in district towns and *mufassals*. Even the Government was apologetic and finally reluctant to publish the full reports of those *means* the police adopted.

The public feeling is rather exasperated on this point, particularly in affected areas. I therefore suggest, arrest in a lawful manner—and in doing so—do not cause inconvenience or mischief to the members of the public

Mr. S. M. BOSE: Sir, may I say a few words about Dr. Dutt's amendment? He speaks about lawful and unlawful means; but unfortunately he forgets that all the things which this Bill wants to do are outside the category of what is considered lawful, as for instance the power to arrest, the power to seize movable and immovable properties. All these things outside this Bill and outside the Ordinances would have been unlawful and everything that is enacted by this law would now become lawful. So, under sub-clause 3 (2), any means that may be necessary to effect the arrest of a person would by virtue of this become lawful. So I do not understand the point of Dr. Dutt's drawing a distinction between lawful and unlawful.

Mr. NARENDRA KUMAR BASU: Sir, may I draw the attention of the Hon'ble Member to section 46, sub-section (2) of the Criminal Procedure Code which reads as follows: "If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police officer or other person may use all means necessary to effect the arrest." If the conditions imposed by sub-section (2) of that section were in the Bill, then one might have understood the purpose of the enactment; but this clause says "An officer making an arrest under this section may in so doing use any means that may be necessary to effect the arrest" There is no such condition that the use of such means as may be necessary to effect the arrest can only be resorted to if there is resistance to the endeavour to arrest; when the first clause gives power to arrest to all and sundry, even to a constable, I think that unless there is a clause putting a restraint as is contained in sub-section (2) of section 46 of the Criminal Procedure Code, it is likely to be abused On this ground, Sir, I would ask the Hon'ble Member to see that some restraint is placed on the unrestricted activities of officers of the subordinate police who are entitled under this clause to arrest.

The Hon'ble Mr. R. N. REID: Sir, I have already referred to this clause. This clause certainly does not intend that anything unlawful

will be done and I quoted the particular section of the Criminal Procedure Code on which it is based in my reply. It seems to me that this clause is very much the same as the sub-section of section 46 of the Criminal Procedure Code, which says: "If such person forcibly resists and so on." I think therefore it must be understood that this section does not certainly intend to give any unrestricted power such as is suggested——

Mr. NARENDRA KUMAR BASU: The understanding of the Government ought to be clearer to the constables.

The Hon'ble Mr. R. N. REID: In any case, I do not think that the provisions of the Criminal Procedure Code are ousted by this clause in this Bill as they are not in this respect inconsistent with the provisions of the Bill. With reference to Mr. Poddar's remark, I may point out that there are stringent regulations in the Police Regulations as to the use of firearms so as to prevent them being used unnecessarily, and unless circumstances fully justify the use of firearms any officer using them is the subject of disciplinary proceedings.

I think the amendment of the Rai Bahadur has been sufficiently met by Mr. S. M. Bose's remarks and I would just remind the House that there is no intention of Government trying to justify the use of unlawful means in this Bill. With these words I oppose the amendment.

The motion of Rai Bahadur Dr. Haridhan Dutt was then put and lost.

The motion of Mr. Ananda Mohan Poddar was then put and lost.

Mr. PRESIDENT: The question is that clause 3 stand part of the Bill.

The motion was put and agreed to.

3-15 p.m.

Clause 4.

Mr. PRESIDENT: The question is that clause 4 stand part of the Bill.

Maulvi ABDUS SAMAD: I beg to move that clause 4 be omitted.

Sir, clause 4 gives unrestricted powers to the officers of Government to take possession of houses. The wording is "that if in the opinion of the local Government any land or building can be utilised as quarters for officers . . . . ." The wording does not mean that it is necessary for use or it is required for use. There is nothing of the

kind. The wording is "can be utilised." Now, Sir, suppose a crime is committed in a certain town, and the culprit is either arrested or not. Now, in order to teach a lesson to the people of the town, an officer by virtue of the power given to him in this clause can take possession of all the houses of all persons holding advanced political views, and who in support of those views criticise the policy of the Government. The houses of those persons can be easily occupied under the provisions of this clause. Now, Sir, it may be urged by the officer that the criticism of the Government's policy creates disaffection in the minds of the people and ultimately that is responsible for anarchical crime or the spread of terrorism. That will be made an excuse for teaching a lesson to these people. So the object of the clause is to stop all constitutional agitation and all criticism of Government policy. If that be the motive of the Government, I think that would have been very easily achieved by enacting a law making it penal to hold advanced political views or criticise the policy of Government. Instead of that, Government is taking a round-about way of stopping advanced constitutional agitation. So if this clause is placed on the statute book, it will be unsafe for the people who are law-abiding people to express any advanced views, and thereby incur the displeasure of Government. So I think this clause should be omitted.

Mr. P. BANERJI: I beg to support the amendment moved by Maulvi Abdus Samad. He has rightly pointed out that if any land or building is required for the purpose of Government, it can be acquired. For instance, I will just point out that recently the house of Kisori Pati Roy of Midnapore has been taken possession of for one year. Kisori Babu, as is well known all over the country, is not an anarchist. He was the chairman of the district board and an efficient lawyer of the local bar. We find that next to his house there was a vacant house, a very big house, belonging to the Jhargram estate, and that house is still lying vacant and is seldom used by the people of the estate. That house could have been taken, but instead of that the house of Kisori Babu, the only house which he possesses in the town of Midnapore and which is required for his purpose as he is a practising lawyer of the local bar, has been taken. I submit, Sir, that this house has been taken in order to give this gentleman trouble; it is obviously out of retaliation that he was a Congress man and a popular district board chairman which has been superseded, as is well known to every member of this House. Another house has been taken, a house belonging to the proprietor of a Press. He was vice-chairman of the district board and a Congress man. Near his house there are several houses still vacant and can be had. Another house belonging to Manmatha Nath Das, a prominent lawyer and Congress man, has been taken. These three houses in three

different quarters have been taken in Midnapore, whereas just near their houses vacant houses are available on payment of rent. I submit if such power is given by this Act that any person can be ousted only on the excuse that the house is required for the purposes of Government, or may be used not even for the purposes of Government.

Another point I beg to submit is it may be taken "at such time as may be specified in the order". It has not been stated for what time Government may ask any person to vacate a house from such and such a date, and after the man is ousted from his house he goes away, miles away and it does not matter where he goes. He does not know when his house is going to be vacated by Government. He will not be given any reasonable notice or anything of the kind. But if it is stated that the house is wanted for such time, that is for 3 or 6 or 12 months, if in the notice such a time limit is given, then the man can know definitely that after 3 or 6 or 12 months his house will be vacated. He will then be able to hire a house for his own occupation for that time, and make necessary arrangements for his removal. This clause is not at all clear whether such time is to be specified in the notice to be given. This Act says that this clause is only for the possession of immovable property, but here it is said that the Government can take fixtures, fittings, furniture and other things for the time being in the building, and although there is provision for reasonable notice and reasonable facilities for withdrawal to be given to the person, it has not been said that reasonable facilities will be given for the removal of his belongings. So if this clause is intended to give power to the local Government for the possession of immovable property, may I inquire whether movable property will also be taken? A provision has been added perhaps by the Select Committee, but it is not clear whether the person will be given any reasonable facilities to remove his furniture. That cannot be removed; only withdraw from the house. Government can at once give him an order that in ten minutes' time he must clear out. What guarantee is there that that will not happen? Ten minutes may be sufficient at least in the opinion of Government; therefore here I submit that he should be given reasonable facilities for the removal of his belongings.

Sir, power has been given that if a person suffers on account of the dispossession of his property, compensation shall be given, and that compensation will be awarded by the Collector. Sir, as we all know, the Collector should not be given such powers, at least the right of appeal should be given to the person aggrieved on this account to the local Government. Here also that power has not been given. I, therefore, say, Sir, that if this clause forms part of the Bill then the freedom of the people will be entirely taken away. It is a very dangerous clause on account of the fact that there is no guarantee, and even if a person has only one dwelling house, that may be taken just

as has been done in Midnapore in the case of Babu Kisori Pati Roy. It would be even more inconvenient in a place where it is difficult to get proper dwelling houses, and where proper dwelling houses are not always available. With these words, I support the amendment that the clause be deleted.

Mr. NARENDRA KUMAR BASU: I beg to support this amendment. This is one of the very mischievous clauses in the Bill for the existence of which I opposed the introduction of this Bill. A provision like this, I would challenge the Hon'ble Member, cannot be found in any law in any civilised country. The section is that if Government thinks that any land or building can be utilised as quarters or offices of public servants, etc., they can sequester such lands or buildings. It is not even necessary for the Government to say that it is necessary for the Government to have buildings or land for the accommodation of troops or for the purpose of quartering officers or public servants. Simply because any building is wanted, that may be utilised for offices, —I take it, any residential building, anywhere in the world, can be utilised for the purpose of quartering police officers, but no civilised Government takes the power of acquiring all such buildings. As I have said, I challenge the Home Member to say whether in any country in the world or even in India, except under these lawless Ordinances. As I have said, I challenge the Hon'ble Home Member to say whether in any country in the world or even in India such a provision can be found, except in the lawless Ordinances, or in any code of law. Is it fair to ask the Legislative Council to give its sanction to a provision of this description?

Babu SATISH CHANDRA RAY CHOWDHURY: I beg to support this amendment. My reasons for doing so are these: I have tried to read some meaning into this Bill. If it is the intention of Government to suppress terrorism and not to suppress honest citizens and honest expression of public opinion by this Bill, then I may say this clause is out of place in this Bill. I challenge the Hon'ble Member to convince us how, minus this clause it becomes impossible to suppress terrorism or how this clause is essentially necessary to effectuate his declared intention. If, however, it be otherwise, if it is a mere excuse for suppressing expression of public opinion or of holding honest political views, this clause will be useful and he should frankly say so in that case. I will then give up my objection, as in that case the mailed fist becomes visible. But, if the object of the clause is to suppress terrorism only, then I say it is altogether out of place. If this clause is there, whether it is utilised or not, and whether the police officer is

authorised by the local Government or not, its very existence in the statute book will make the people afraid to express their political views if those views are not palatable to the district officials. If the expression "local Government" was not in a later section diluted to mean the District Magistrate and if again the District Magistrate was not authorised to invest any officer with his own powers, in other words the powers of the local Government, much of our objection might be waived. As it is, even a constable may be invested with the powers of the local Government. If the powers covered by the section were exercised by the local Government only, we might have the consolation at least that the Hon'ble Member, who is responsible for law and order, would think over the matter carefully before he passes any order under section 4. But as the provisions stand at present any subordinate police officer may be called upon to exercise the powers under this section and hence a feeling of general insecurity is bound to prevail. With the coming constitutional changes before us when we are going to have a democratic form of government, the present Government ought not to take such a step. What is a democratic government? Standard authors have defined it as a government based on public opinion. Are we going to have a government based on public opinion, a system under which public opinion will have a free scope to express itself, to criticise government and government measures? Then this measure is attempting at the very beginning to strike at the foundations of such a government. If you introduce this measure your reformed government will be a mere sham and it will be worse than what it is at present as public opinion will be non-existent in Bengal. By this Bill you are going to nullify in this black chamber what is going to be done in Whitehall, sap the very foundation of the edifice that is proposed to be erected there. Our position is certainly not so serious as to demand such a provision. No responsible member of this House can be a party to the passing of this particular clause. My friends have said there is no such law in any other country, but they forget that in those countries the government is controlled by the people but here the position is different. Here people are afraid of expressing their political views. An instance has been cited from Midnapore where a house of a gentleman of high position was acquired for holding particular views. What has been done in Midnapore is an illustration of how things will be done in the future. We do not agree in all details with those who hold Congress views, but every one has a right to express his views as strongly as possible and to criticise Government in the way he thinks best. In the future we shall probably have to do more in the way of criticism of Government measures, because the Government will be a popular one and we must set it right when we find it going wrong. In a really democratic form of government rights and privileges of the citizens will be extended in various directions and public opinion must be vigilant to protect them. Public opinion here is given the go-by

together when you can pounce upon anybody's land and building, which may be his dwelling house or a temple, and all that they contain including the cooking utensils can be seized. What is the meaning of reform when the Hon'ble Member sees justification for inserting this clause? Up to the present time no difficulty has been experienced in finding accommodation either for the police or military in any disturbed area. So on the score of past experience you have no justification for inserting a clause like this. You can always hire a house on payment of rent and leave the peaceful and honest citizens undisturbed in the occupation of their dwelling houses; their temples should on no account be touched. By this clause I can say without hesitation you are trampling under your foot all our ideas of liberty and freedom. I find that some gentlemen are coming forward with certain amendments, but I submit no number of amendments can make the clause palatable or can improve it to such an extent as to be acceptable to any honest citizen. But all the same we are to swallow this bitter pill, which is even without a sugar coating. I, therefore, strongly support the amendment.

Dr. NARESH CHANDRA SEN GUPTA: I am afraid that all the beauties of this charming little clause have not been completely expounded as yet; so I take this opportunity of pointing them out. It has been pointed out that a building with all its fixtures, fittings and other things can be taken possession of, not if they are necessary, but if they can be utilised as quarters for officers, etc. It is not even necessary that there should be an emergency or that quarters should be required for additional police officers or offices for public servants, all that is necessary to acquire these houses is that they should be suitable. They may be taken, and if they are taken,—then comes the most charming thing. After a house has been taken, the local Government may dispose of or use such land, building, fixtures, fittings and furniture or other things, not for the purpose of accommodating police or offices but in such way as it may consider expedient. It reminds me of the classical instance of a case of this nature when a large area of land was taken over for a public purpose in the city of Calcutta and that land is still lying vacant in Porabazar. If a building is suitable for a public office or things like that, it may be taken by Government and then, after it has been taken, Government are not bound to make it a public office or use it for accommodating police officers; they might do what they like with it. They may make it a club for local officers there for aught we know, for there is nothing to prevent it. The next thing I should point out is this Section 4 says that it is the local Government who may acquire and dispose of these. But the whole show is given away in section 16 (*1*), where it says the local Government may invest the District Magistrate with the powers of a local Government under

section 4 and, under sub-clause (*3*) of that clause, the District Magistrate may by order in writing authorise any civil or military officer—no matter how low in rank—to exercise the powers of a District Magistrate under this chapter and those with which the District Magistrate has been invested under sub-clause (*1*), *i.e.*, the powers under section 4, so that although we begin with the local Government we bring in every civil or military officer. And for this we have to thank the Select Committee; because in the original draft of the Bill power was given to officers not below the rank of the Deputy Superintendent of Police or to any military officer not below the rank of Captain. The Select Committee has improved it and it has provided that any civil or military officer can exercise these powers of a District Magistrate. That is how the Bill stands. Mr Basu has pretended that the Hon'ble Member will not be able to find any analogy for such a provision in law. I do not know, but perhaps Mr. Basu forgets one

3-45 p.m.

thing. There is such a thing as martial law: which of course is not law but the cessation of law—that is a negation of law. What Government ask us to do by this piece of legislation is to declare martial law, and under martial law all these things could be done. The only difference is that the people here being so very peaceful, it is not necessary to give all these powers to armed soldiers but the same powers are given to District Officers and Police officers. In that way it will not be difficult to find an analogy for this. I was rather moved by the disappointment which was expressed by Mr. Ray Choudhuri when he felt that our freedom was gone, all our hopes of freedom and democracy were gone. It speaks much of the optimism of my friend that he still retains some of the hopes.

Mr. SHANTI SHEKHARESWAR RAY: Sir, this is one of the most objectionable clauses in this extraordinary Bill. A person need not be a terrorist or even a sympathiser of the terrorist movement, but he may be asked to move out of his residential house to make room for others. The poor man driven out of his own house may have no other place where to take shelter with his family. The Government have just to decide that the house can be utilised in a particular way, and the unfortunate occupier has no other alternative but to vacate the same. The poor householder, a man perhaps with a large family and not endowed with the riches of the world like the gentlemen who adorn the Treasury Bench, has no relief. He cannot appeal. There is no provision to suggest that he will have any say in the matter. I will ask the House just to visualise the plight of such a victim of the operation of this Bill. The housewife must leave under compulsion her

hearth and home enriched with all the memories with tearful eyes, the little children will leave their familiar surroundings with a puzzled look, the head of the house will leave with a curse and the young men of the household will leave muttering—well I stop here. I dare not translate into words their feelings, lest I may be misunderstood. Sir, I ask, can you blame them if they come to entertain feelings of hostility and bitterness against Government under such circumstances. We are told that this measure is intended to crush terrorism in the land, well, I have no hesitation to assert that in operation this single clause will help to swell the ranks of the terrorists in large numbers. The sigh of the aggrieved party will strike a sympathetic chord in the heart of an ever-widening circle till at last there is a country-wide conflagration. Sir, I may anticipate the arguments of the Hon'ble Mr. Reid. He may say that the Government will see that there is no hardship in any case: that the persons who will be asked to vacate their houses should come forward to do so in order to accommodate the police out of public spirit. These are fine sentiments no doubt. But let us examine for a moment the action of the Government in this connection under the ordinance on which this Bill has been framed. I can hardly say that their action in the past creates confidence. From the information I was able to elicit from the Hon'ble Member in charge of the Political Department it was apparent that the action had been taken on communal grounds. Of course the Hon'ble Mr. Reid was pleased to deny that the houses were seized because the occupiers belonged to the Hindu community. But, Sir, one cannot escape from the fact that all these persons are Hindus and in every district mentioned in the statement. If this is not due to deliberate policy, it must be a very strange coincidence indeed that all these persons should be Hindus. Naturally in this connection the Hindus all over Bengal have been greatly agitated; moreover, the statement made by the Hon'ble Mr. Reid that non-Hindu policemen had been quartered in certain Hindu gentlemen's residential houses at Midnapore has created feelings of utmost resentment. The action is interpreted as proceeding from a policy of reprisal. I hope the Hon'ble Mr. Reid will be able to place before the House some justification for the action of Government. Sir, we must refuse to support a measure under the cover of which such wanton acts of desecration can be committed by an irresponsible executive. It is no use trying to convince men who have no real home, about the enormity of the proposal; but I appeal to those who are open to conviction to judge the proposal on its merits. I am sure they will have no hesitation to reject it.

Babu SATYENDRA NATH ROY: Sir, I support this amendment because I have not been convinced at all as to why with regard to the suppression of terrorist outrages in Bengal the commandeering in a

martial-law fashion of movable and immovable properties and buildings should at all be required and why you should incorporate such a clause in a permanent Act of the legislature. Sir, I would first point out that not only any land or building but any "fixtures, fittings, furniture or other things for the time being in the building" can be taken possession of. Sir, "other things" may include articles of food, cooking utensils, clothings, etc. The only safeguard provided is that reasonable facilities for withdrawal shall be given to persons occupying any such building. Reasonable notice will be given only for withdrawal; but what reasonable notice, I ask? Half an hour or so would perhaps be thought quite enough either by the military or the police; or perhaps 15 minutes would be allowed to the ladies of the house to go away without taking their personal things with them and they may be asked to leave the house at any hour of the day or night. It does not specify any definite hour—say sunrise to sunset—but they might be asked to withdraw from the house at any hour of the day or night, whether they be sleeping or preparing their own food. These are very wide powers. I am not conversant with martial law, but I do not think martial law can be more drastic than clause 4 of the Bill. With these words I support the amendment.

The Hon'ble Mr. R. N. REID: Sir, I am afraid I must oppose this motion for the omission of clause 4. I admit that many of the powers in this Bill are very wide, and the justification for them is simply this, that they are intended to make an endeavour to meet a very serious menace which Government are up against. Under no other circumstances would Government have undertaken such a legislation as this. Many of the members of this House who have spoken on these amendments have drawn very lurid pictures of what is likely to happen if these wide powers are given. I admit that wide powers are given in this Bill but I do not admit that they will, as some of the speakers have said, invariably be abused to the extreme extent as they describe. I do not think that is likely and certainly if these wide powers have to be extensively used, the officers will be given strict orders as to how they should use them. There is one object only in this Bill and that is to make some endeavour to meet the menace of terrorism and these clauses which have been criticised, and criticised quite reasonably as regards the wide nature of their powers, are intended only to be used in the fight against terrorism, and, as I said before, the provisions of the Bill will not be extended broadcast all over the province, but only where necessity demands their enforcement. One member of the House took exception to the wording at the beginning of the clause, namely, "any land or building can be utilised." With regard to that I think there is an amendment which will come up later and which Government will accept. With these words I oppose the amendment.

The motion of Maulvi Abdus Samad was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Bahah, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Babu Jatindra Nath.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chaudhuri, Babu Kishori Mohan.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Choudhury, Maulvi Nurul Absar.
Dutt, Raj Bahadur Dr. Haridhan.
Faziullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Gupta, Mr. J. N.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Mittra, Babu Sarat Chandra.
Mookerjee, Mr. Syamaprasad.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Babu Suk Lal.
Poddar, Seth Hanuman Prasad.
Rai Mahasai, Munindra Deb.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Rout, Babu Hoseni.
Roy, Babu Satyendra Nath.
Roy Choudhuri, Babu Hem Chandra.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Syed Nausher.
Austin, Mr. J. M.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Barma, Rai Sahib Panchanan.
Bashir Uddin, Khan Sahib Maulvi Mohammad.
Blandy, Mr. E. N.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Das, Rai Bahadur Kamini Kumar.
Donkin, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ganguli, Rai Bahadur Sunil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hussain, Maulvi Latafat.
Kerr, Mr. W. J.
Khan, Maulvi Amin-ud-Zaman.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Khan, Mr. Razaur Rahman.
Leeson, Mr. G. W.
Maguire, Mr. L. T.
McCluskie, Mr. E. T.
Mitter, the Hon'ble Sir Provash Chunder.
Momin, Khan Bahadur Muhammad Abdul.
Mortimer, Mr. H. R.
Mullick, Mr. Mukunda Behary.
Nag, Reverend S. A.
Nandy, Maharaja Srish Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja
Petre, Mr. S. F.
Philpot, Mr. H. G. V.
Rahman, Mr. A. F. M. Abdur-.
Ray, Babu Khettar Mohan.
Ray Chowdhury, Mr. K. G.
Reid, the Hon'ble Mr. R. N.
Ross, Mr. J.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sarker, Raj Sahib Robati Mohan.
Sen, Mr. S. R.
Stapleton, Mr. H. E.
Suhrawardy, Mr. H. S.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

The Ayes being 29 and Noes 55 the motion was lost.

4 p.m.

Mr. S. M. BOSE: With your permission, Sir, I would like to substitute the word "utilise" instead of the word "secure" in my amendment, so that it will read: that in clause 4 (*1*), line 2, for the words "any land or building can be utilised as" the words "it is necessary to utilise any particular land or building *for*" be substituted.

Sir, as my friend, Mr. N. K. Basu has said, the clause as it stands is very wide, for every land or building can be used for such an object. I take it, Sir, the real object that the Government have in view is that only when it is actually necessary to utilise any particular piece of land, then and then only will the power be exercised, and otherwise not. But as it stands, the clause may empower Government to acquire any land or building whether it is actually necessary or not. So I hope Government will have no objection to accepting this modification which, I take it, only embodies what is their real intention.

The Hon'ble Mr. R. N. REID: I am prepared to accept the amendment, Sir.

The motion of Mr. S. M. Bose was then put and agreed to.

Kazi EMDADUL HOQUE: I beg to move that in clause 4 (*1*), line 2, after the word "building" the words "not being a place of permanent worship or a dwelling house of the owner" be inserted.

I do not know, Sir, what has prompted Government to embody this provision in the Bill in this reckless fashion. I do not think Government can ever be in the necessity of finding quarters or offices for public servants or for the accommodation of troops or police or prisoners or persons in custody and so forth. If the Government really need any such thing, they can do so in any other way without taking the land or building of private individuals. They can pitch tents in the open maidan and thereby find quarters for the officers or offices for public servants or police or prisoners whom they may choose to take into their custody. But they should not be allowed to take the land or buildings of any private individuals. Besides, there is no restriction or limitation placed on this power that it is the land or building of those who are implicated in the terrorist movement that will be taken possession of. The clause as it stands empowers Government to take the land of any person whether he is guilty or innocent, or whether he has any connection with the terrorist movement or not. So this shows that Government is anxious to disturb the tranquillity of the people and the peaceful residents of this country. (Khan Bahadur MUHAMMAD ABDUL MOMIN: How?) It is for the Government and not for me to answer. The Government is so very eager to do this, because perhaps there may be some other motive behind it, and that motive seems to be to wreak vengeance on those people who are out for freedom and whom they consider to be in a way connected with the terrorist movement; that appears to be the motive. If that be so, then let them take the House and building of those persons only who are in their opinion guilty or about whom there is a reasonable apprehension entertained by Government. But why should they take lands or buildings of those who are in no way connected with the movement, for this clause does not restrict the power

of Government to do so? It rather gives Government the right to take the land and building of any and every person, which even a barbarous Government would not think of doing. But they are not content with that. They are not going to spare even the dwelling places or places of worship. They do not spare even mosques or temples. We can very well let them have the use of these places, if they use them as places of worship to say their prayers or *vajan*, which is the prime object of those places. If the Government really desire that the soldiers or troops or officers for whom they intend these houses to be taken should say their prayers there, we have no objection. But if they use them in any other fashion, the religious susceptibilities of the Hindus and Muhammadans would be wounded. How can the Hindus or Muhammadans allow their temples and mosques to be used in any other fashion than for prayers? This is a land, Sir, of the virtuous and God-fearing; this is a land of people to whom worship of God is part and parcel of their very nature. And they cannot do away with their prayers or *vajans*. Nor can they agree to make their mosques or temples over to you for using them in any way you like.

Government is not also prepared to spare the dwelling houses. If you want to wreak vengeance upon persons who have offended you, you may be justified in taking away their houses and buildings, but if the owner of a house has not given you any cause of offence and who is perfectly innocent, you will never be justified in taking away his lands and buildings.

4-15 p.m.

So if you take the house of a person which is used not only by the owner but also by other members of his family, it would be a great hardship if the house be taken. My submission, Sir, is that if the Government take the house of a person who is guilty or about whom there is reasonable suspicion that the man is implicated in terrorist movement, there may be some reason for taking his house, but if you take the house of a person who is not in any way implicated in any terrorist movement but a member of his family may be implicated therein, then by taking his house many innocent persons will be put to trouble, for instance the women and children of the family will be turned adrift as they may have nowhere to go as the owner may have only that house; where then will they be sheltered? If you do not want to spare such people and leave them in their dwelling house, then for God's sake please spare the places of worship which are the most sacred places, because if you do not spare such places, then you will be riding roughshod over the feelings of both Hindus and Muhammadans. With these words I commend my motion to the acceptance of the House.

With your permission, Sir, I would leave out the words "or a dwelling house of the owner" from my amendment.

The Hon'ble Mr. R. N. REID: Sir, I think it may help the course of the discussion if I say at this stage that Government are prepared to accept amendment No. 40 in a slightly modified form. There are a large number of amendments on this very subject and perhaps the movers of those amendments may find it desirable not to put theirs.

Mr. NARENDRA KUMAR BASU: Sir, may we not be informed how the modified amendment runs?

The Hon'ble Mr. R. N. REID: Sir, the modified amendment runs as follows:—

"That after the proviso to clause 4 (*1*), the following be inserted, namely:

'Provided also that the land or building—

(*a*) shall not be so utilised as to wound the religious feelings of the owner or of the persons who were in occupation when possession was taken; and

(*b*) shall not, as far as practicable, be so utilised as to interfere with access to any place of worship situated in or contiguous to the land or building.' "

There is one other point, Sir, and that is if the above modification be acceptable to the House, Government would be prepared to add to the definition of building in sub-clause (*2*) of clause 4 the following words:— "but does not include any structure set apart for public worship."

Mr. PRESIDENT: Do I understand that if the House accepts the modified amendment, as suggested by the Hon'ble Mr. Reid, amendments Nos. 30, 31, 37, 38, 39 and 40 will not be moved? In any case, the best course for me to adopt would be to call out those amendments, as I do not want to impose any restriction on the intending movers thereof.

The motion of Kazi Emdadul Hoque was then, by leave of the Council, withdrawn.

Mr. PRESIDENT: Raja Bahadur of Nashipur may now move, if he so desires his amendment in the amended form suggested by the Hon'ble Mr. Reid.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir I beg to move the following amendment:—

"That after the proviso to clause 4 (*1*) the following be inserted, namely:—

'Provided also that the land or building—

(*a*) shall not be so utilised as to wound the religious feelings of the owner or of the persons who were in occupation when possession was taken; and

(*b*) shall not, as far as practicable, be so utilised as to interfere with access to any place of worship situated in or contiguous to the land or building.' "

The motion was put and agreed to.

The Hon'ble Mr. R. N. REID: Sir, with your permission I would like to move an independent motion which runs as follows:—

"That to clause 4 (*2*), the following words be added, namely:—

'but does not include any structure set apart for public worship.' "

The motion was put and agreed to.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 4 (*1*), line 4, after the word "custody" the following be inserted, namely:—

"in places where public lands or buildings are not sufficient for the purpose, and there is no land or building suitable for such purposes available for hire."

Sir, as I have just heard Mr. Reid, his opinion is that the very drastic provisions of this clause will not invariably be abused, I am quite willing to accept that so long as the local Government exercises the powers given under this clause, the powers will not invariably be abused. But under clause 16 the local Government, as we have seen, may invest the District Magistrate with the powers of a local Government who in his turn may in specified places invest any civil or military officer with the powers under this section. Therefore, in spite of what Hon'ble Mr. Reid might say about intention, there is a great danger of the provisions being abused in some cases.

4-30 p.m.

Then we have been told that the provisions of this clause are intended to be used only against terrorism. But we know, Sir, that from

the replies which we have got in the Council to the question of Mr. Maiti, the member for Midnapore, that the houses of people who are not alleged, at least publicly, to be connected with terrorism, have been taken by Government, even though there were several other houses nearby which were not infrequently vacant, whereas the houses taken possession of by Government, were always occupied. The house which was mentioned in the question of the member from Midnapore was actually occupied, if I remember Mr. Reid's answer aright. Therefore, I say that if the Government were to accept this amendment, it will go a great deal to satisfy public feeling, and, in fact, the acceptance of this amendment or not will be the acid test of Government's sincerity in its declaration that they do not want to abuse the powers given by this clause for the purpose of harassing people with whose political opinions they are not in sympathy, to say the least of it.

The Hon'ble Mr. R. N. REID: I regret I must oppose this amendment. As I have said before this is an emergency measure, and it is to deal with an emergency that we are asking for special powers. It is not intended——

Mr. NARENDRA KUMAR BASU: Therefore, the first house of the first Congress man is taken possession of——

The Hon'ble Mr. R. N. REID: I do not admit that this is so. I may again say, that it is not intended to use this power as a means of harassing or getting at persons simply because they hold certain political views.

Mr. NARENDRA KUMAR BASU: What about the first part of the amendment?

[At 4-35 p.m. the Council was adjourned for prayer and it reassembled at 4-40 p.m.]

Mr. SYAMAPROSAD MOOKERJEE: May I make a suggestion to the Hon'ble Member? The Hon'ble Member has just now explained that there is considerable difficulty in accepting the latter part of the amendment because Government may not know whether any houses are available for hire; there might be practical difficulties. I understand that Government is willing to accept the first part of the amendment. If that is so, that would be something. The amendment would then provide that where public land or building is not sufficient for the purpose, this clause will be applicable.

The Hon'ble Mr. R. N. REID: Government is prepared to accept that.

Mr. NARENDRA KUMAR BASU: In view of that I beg for leave to withdraw my amendment, and substitute instead the following:—

"That in clause 4 (*1*), line 4, after the word 'custody' the following be inserted, namely:—

'in places where public lands or buildings are not sufficient for the purpose.' "

The following motion was then, by leave of the Council, withdrawn:—

That in clause 4 (*1*), line 4, after the word "custody" the following be inserted, namely:—

"in places where public lands or buildings are not sufficient for the purpose, and there is no land or building suitable for such purposes available for hire."

The following motion was then put and agreed to:—

"That in clause 4 (*1*), line 4, after the word 'custody' the following be inserted, namely:—

'in places where public lands or buildings are not sufficient for the purpose.' "

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 4 (*1*), lines 8 to 11, the following be omitted, namely:—
"together with the whole or any part specified in the order of any fixtures, fittings, furniture or other things for the time being in the building."

If the intention of the Government is to find suitable quarters for officers, I would ask them to consider whether it is necessary to have all fixtures, fittings, furniture or other things in the house. If they were to hire a house in the *mufassal* of Bengal, it would be impossible for them to get a furnished house, and then the value of these fixtures, fittings, furniture and other things, though they may not be intrinsically high, may have a sentimental value in the eyes of the owners of the houses, and the members of their family. Therefore I would ask the Hon'ble Member to consider whether it is absolutely necessary to have the fixtures, fittings, or other things when they take possession of a house.

The Hon'ble Mr. R. N. REID: The reading of the clause is: "If, in the opinion of the Local Government any land or building can be utilised as quarters or offices for public servants, or for the accommodation of troops....." etc. This does not necessarily cover every single thing in the house. As I read it, the idea is to take over with the house

anything in the way of fixtures, etc., which might be needed. But obviously the District Magistrate, when he took over a house like this, would not retain the personal private property of the inhabitants. But this clause is intended to take over all necessary articles. There is also a clause to give compensation to the owners. Therefore, I must oppose the amendment.

Mr. ANANDA MOHAN PODDAR: Sir, there may be some necessity for occupying the land or building, but I do not see why the fixtures, fittings and furniture, etc., in the building should also be taken possession of and used by the police, the troops and others. This will cause considerable inconvenience to the owners of such properties. Troops are usually accustomed to live without furniture when they are in the field of action. They also carry their special camp-outfits with them wherever they go. Then why should they be supplied with furniture in this particular case, causing great inconvenience to the persons concerned? Then, Sir, there are persons who have a prejudice not to use things already used by others. In that case, the furniture left behind by the troops when they go away, will be of no use to the owner. For these reasons I support the amendment.

MUNINDRA DEB RAI MAHASAI: I beg to support the amendment moved by my friend Mr. N. K. Basu. The provision to take forcible possession of lands or buildings belonging to peaceful citizens by ousting them to utilise the same as quarters or offices for public servants or for the accommodation of troops or police or prisoners or persons in custody together with any fixtures, fittings, furniture or other things for the time being in the building is one of the most drastic measures we ever heard. By this, the officers of the Crown want to assume absolute power generally exercised by the military force for the suppression of an invasion and the restoration of order and lawful authority. It is no law at all; it is the negation of law, an exception to the supremacy of law. Sir, to bid adieu to the *bastu bhita*, leaving behind all his belongings, near and dear to the owner, at the sweet will of the authorities apart from all other considerations, would be the cause of mental sufferings of the highest magnitude for a Hindu. It was impossible for those who were accustomed to live in flats or hostels to rightly understand the feelings which this act would engender. It would imperil the very religious feelings and sentiments of the Hindus. The *bastu debata* would be desecrated, the sacred threshold which was scrupulously kept clean every morning and evening and consecrated with the holy waters of the Ganges and the burning of incense will be defiled, the sacred mementoes of the past carefully preserved for generations, the heir-looms handed down from father to son would be trampled under foot by the legalised trespassers or disposed of by the authorities. These

heartless and lawless acts cannot but evoke a sense of disaffection even in the minds of the most innocent of human beings. Pray, do not plant the seeds of discontent through your actions. Pray, do not help to swell the ranks of the terrorists by these foolish methods.

The motion of Mr. Narendra Kumar Basu was then put and lost.

Mr. NARENDRA KUMAR BASU: With your permission, Sir, I beg to move that in clause 4 (*1*), lines 11 and 12, for the words "disposed of or use" the word "utilise" be substituted.

The Hon'ble Mr. R. N. REID: I accept the amendment.

The motion of Mr. Narendra Kumar Basu was then put and agreed to.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 4 (*1*), line 12, after the word "land" the word "or" be inserted and in lines 12 and 13 the words "fixtures, fitting, furniture or other things" be omitted.

I need not repeat what I said in connection with amendment No. 32. I think Government will agree that even if it be necessary to take up the fixtures together with the house there is no reasonable ground for taking any fittings, furniture or other things, and even if that be so to utilise those fittings in such a manner as it may consider expedient is, I submit, not necessary. It would be merely giving a very wide power to the officer who takes possession of it to give it over for the occupation of policemen or other people. There is absolutely no limit to the manner in which they may be used and they may be taken away to some other place in some other district miles and miles away. I do not think Government intends to do that. Therefore I think for the utilisation of the land and building the Home Member may leave the word "fixtures" there and omit the words "fitting, furniture or other things," otherwise it will spell a great deal of hardship and will really be of not much use.

The Hon'ble Mr. R. N. REID: I am not prepared to accept a modified amendment of this description but I do not think this amendment is consequential on amendment No. 32 which I have already accepted. I must oppose this amendment.

The motion of Mr. Narendra Kumar Basu was then put and lost.

Mr. PRESIDENT: The question is that clause 4, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 5.

Mr. PRESIDENT: The question is that clause 5 stand part of the Bill.

Mr. ANANDA MOHAN PODDAR: I beg to move that clause 5 (*1*) be omitted.

Sir, this clause is meant for giving power to the District Magistrate or the police for the matter of that to take possession or dispose of the movable property of any person. There may be some justification in taking possession of immovable properties, but I do not see why movable properties, such as product, foodstuff, etc., should also be taken possession of. This, if allowed, will surely cause much inconvenience and hardship to the person concerned. I do not see why an individual who may be quite innocent should be put to so much inconvenience and made to suffer loss in this way. This arbitrary power if allowed to be exercised by the Magistrate may be greatly abused. The Magistrate shall act on the report of and at the instance of the police. Any person incurring the displeasure of the police may fall a victim to the provision of this section.

So, Sir, it is in the interest of the good name of the Government as well as for the safeguard of the innocent public that I request the Hon'ble Member to accept my amendment and omit this section from the Bill.

The Hon'ble Mr. R. N. REID: I am afraid I must oppose the amendment which proposed to omit clause 5 (*1*) as the principle involved in this clause is practically the same as in existing clause 4. If the amendment just moved is accepted the other one must go too. For any emergency contemplated by this Bill it might be necessary to take possession of movable properties in the way which is contemplated in this clause. I beg to oppose the amendment.

The motion of Mr. Ananda Mohan Poddar was then put and lost.

S. M. BOSE: May I have your leave to move my amendment in a slightly altered form;

Mr. PRESIDENT: Yes.

Mr. S. M. Bose: I beg to move that, in clause 5(*1*), line 2, after the word "Magistrate" the words "it is necessary to utilise" be inserted and in line 3 the words "can be utilised" be omitted.

Abu 4(*1*), line 2, Government has accepted my amendment No. 25 which is on similar lines. I object to the words "can be utilised" as I did in clause 4(*1*). I do not think Government will have any objection.

The Hon'ble Mr. R. N. REID: We have no objection.

The motion of Mr. S. M. Bose was then put and agreed to.

Maulvi TAMIZUDDIN KHAN: Sir, may I have your permission to move my amendment in a slightly altered form?

Mr. PRESIDENT: Yes.

Maulvi TAMIZUDDIN KHAN: I beg to move that in clause 5(*1*), line 9, for the words "disposed of or use" the word "utilise" be substituted. It is just what has been accepted in connection with Mr. S. M. Bose's amendment.

The Hon'ble Mr. R. N. REID: We have no objection.

The motion of Maulvi Tamizuddin Khan was then put and agreed to.

Mr. PRESIDENT: The question is that clause 5, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 5A.

Mr. PRESIDENT: The question is that clause 5A stand part of the Bill.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that in clause 5A, line 1, for the word "Collector" the words "District Judge" be substituted.

The Collector and the Magistrate is the same officer. One is supposed to pass an order and the other is to make an award for compensation. I think it is equitable that both should not be done by the same officer.

The Hon'ble Mr. R. N. REID: Sir, I beg to oppose this amendment.

The motion of Babu Kishori Mohan Chaudhuri was then put and lost.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, may I have your permission to move my amendment in a slightly altered form?

Mr. PRESIDENT: Yes.

Rai Bahadur Dr. HARIDHAN DUTT: I beg to move that in clause 5A, line 3, for the words and figures "section 4 or 5" the words, figures and brackets "section 4 or section 5 or sub-section (2) of section 8" be substituted. What I have done is to amalgamate the two amendments. May I go on, Sir?

Mr. PRESIDENT: Yes.

Rai Bahadur Dr. HARIDHAN DUTT: My idea is that the Collector should be authorised to pay compensation for vehicle and other means of transport commandeered by the authorities. This has been excluded from compensation in the Bill as framed, because this section has been placed at the end of section 8 although the question of compensation has been dealt with in section 5A. That is the reason why I have modified my amendment a little and included the payment of compensation under section 8(2) as one of the items for which the Collector may be authorised to pay compensation. That is all I have to say in connection with my amendment.

The Hon'ble Mr. R. N. REID: I am prepared to accept the amendment but the only point that I want to make out is that Rai Bahadur's other amendment (No. 56) should also be accepted. But he has not moved it. He is allowed compensation not only under section 5 but also under section 8A. I think this clause might be better transposed as clause 8A with the additional three lines which come up later.

Rai Bahadur Dr. HARIDHAN DUTT: I beg to move that clause 5A should be transferred after clause 8 as clause 8A.

Mr. PRESIDENT: You have already withdrawn it and so you cannot move it afresh.

The following motion was then put and agreed to:—

"That in clause 5A, line 3, for the words and figures "section 4 or 5" the words, figures and brackets "section 4 or section 5 or sub-section (2) of section 8" be substituted.

Mr. H. J. TWYNAM: I beg to move that clause 5A should be transferred after clause 8 as clause 8A.

The motion was put and agreed to.

5-15 p.m.

Mr. ANANDA MOHAN PODDAR: I beg to move that after clause 5A the following be added namely:—

"Provided that if the Collector's award be deemed unsatisfactory to the applicant he shall be entitled to adjudicate the award of compensation in a civil court."

Sir, the powers conferred by sections 4 and 5 of this Bill on the Government are very drastic and at the same time arbitrary. By these the Government may take possession of immovable or movable property and dispose it of in any way it likes. The Government may dispose of or use the land, building and even any product in such manner as it may consider expedient. Sir, this is surely an encroachment on the right and liberty of private persons. It means that those who are in the bad book of the police will have to suffer considerably from the pecuniary point of view. Just imagine the helpless condition of a person who is ordered to vacate his hearth and home immediately and he is not allowed even to take away his things of daily use along with him. There is no alternative—no appeal, no protestation will save him from the indignity and inconvenience. The only redeeming feature is that on the application of the sufferer the Collector is empowered to award him such compensation as he thinks reasonable.

Sir, it is in the interest of justice, equity and fairness that the aggrieved party should be properly compensated. But the decision about the amount of compensation should not be left at the hands of the Magistrate alone under whose orders he has to suffer the loss. My proposal is that if the Magistrate's award be considered inadequate and insufficient, the aggrieved party should be allowed to prefer an appeal to a civil court of proper jurisdiction. I do not want that he would at once go to the civil court, but what I want is that, if necessary, the award of the Collector may be reviewed by the civil court.

Sir, that we are opposed to the principle of this Bill has been explained by many members already. But now that the Bill is going to be passed into law, we feel it our duty as individual members of this House, to try to improve it as far as practicable. Sir, I feel it my duty to tell the House that the immediate result of passing these measures is to spread discontent in the country; it only makes the Government more unpopular. If a person is made to suffer loss without any fault of his own and if he is not provided with proper compensation, that will only rouse the sympathy of the public towards him and foment discontent, the after effect of which is disastrous. So, Sir, I would request the Hon'ble Member to accept this reasonable amendment if not for anything else, even for the sake of justice, fairness and good name of the Government.

Mr. NARENDRA KUMAR BASU: Sir, I beg to move that after clause 5A the following be inserted, namely:—

"Provided that such person if he does not accept the award may, by written application to the Collector, require that the matter be referred by the Collector to the court appointed to perform the functions of a court under the Land Acquisition Act, 1894, and such reference shall be dealt with under Part III of the said Land Acquisition Act."

Sir, I do not think Government can have any objection to this proposal, because the compensation is to be assessed by the Collector and then if the person whose property is taken has any objection, he may take proceedings in the land acquisition court. It will not delay the taking over of these properties in any way and if the man, who suffers injury by this sequestering of his movable and immovable properties, wants to take the matter to the higher court, I do not think Government should stand in the way of his doing so. Moreover, as pointed out by Babu Kishori Mohan Chaudhuri, the Collector is mostly another name for the District Magistrate, and the award made by the District Officer, who as District Magistrate takes possession of the house and as Collector makes the award, may not in all cases be fair to the person concerned. I do not think there is any justifiable reason why this liberty should not be gvien to the subjects to take the matter to the land acquisition court.

Babu SATYENDRA NATH ROY: Sir, I support the amendment moved by my friend Mr. Narendra Kumar Basu. If I may say so without any disparagement to the other movers of the amendment, this is the most practicable amendment regarding the right of appeal in respect of compensation to be awarded by the Collector. I think the members of the House are aware that under the Land Acquisition Act of 1894 the Collector acts as an executive officer and there is a reference allowed under the Act to the Land Acquisition Judge. There is again a right of appeal to the High Court against the decision of the Land Acquisition Judge also. Here the Collector who is also, as Babu Kishori Mohan Choudhuri has said, the Magistrate of the district and the head of the police, would be the final authority regarding the amount of compensation and the amount of compensation would most probably depend upon the confidential reports of the police officers concerned. There ought to be some right of appeal and the right of appeal that is provided by the Land Acquisition Act should be allowed and the procedure laid down in that Act should be followed. There will not be any difficulty as regards procedure and I think Government ought to give this right of appeal under the Land Acquisition Act. With these words I support the amendment.

The Hon'ble Mr. R. N. REID: Sir, I am unable to accept the amendments. It is against the whole principle of an Emergency Act to allow an appeal to the civil court. This point was considered very carefully by the Select Committee and they decided that it was not a suitable case for reference to the civil court. If any necessity for an appeal subsequently arises then of course there is always the Government and if any one is aggrieved by the orders of the Collector, he can make representations to Government and have his case investigated; but to hand the matter over to the District Judge is quite a different thing and would be neither in the interest of Government nor of the party concerned and would be neither desirable nor practicable. I think the civil court will be in a difficult position to find out on what basis to decide these claims, and apart from that it is very desirable to cut short these proceedings as much as possible. With these words I oppose the motion.

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Mr. SHANTI SHEKHARESWAR RAY: Sir, it is difficult to understand the position of Government. The Hon'ble Mr. Reid has laid down the principle more than once in the course of the debate. We can understand the position so far as the terrorist is concerned. He must be punished or killed at any cost; but why should the private rights of an ordinary citizen be encroached upon and why should he be denied the ordinary facilities which he normally enjoys. There is no reason why he should not be given an opportunity to place his case before the proper authorities so that if there be any grievances they may be properly inquired into. To shut him out from this reasonable right of appeal will cause great hardship and I think Government have no justification in imposing such hardship on any citizen who is not connected with the movement or who has no sympathy with it.

The motion of Mr. Ananda Mohan Poddar was then put and lost.

The motion of Mr. Narendra Kumar Basu was then put and a division taken with the following result:—

AYES.

Banerji, Mr. P.
Basu, Babu Jatindra Nath.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chaudhuri, Babu Kishori Mohan.
Choudhury, Maulvi Nural Absar.
Dutt, Rai Bahadur Dr. Haridhan.
Fazlullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Maiti, Mr. R.
Mitra, Babu Sarat Chandra.
Mookerjee, Mr. Syamaprosad.
Mukhopadhyay, Rai Sahib Sarat Chandra.
Nag, Babu Suk Lal.
Poddar, Mr. Ananda Mohan.
Rahman, Maulvi Azizur.
Rai Mahasai, Mumindra Deb.
Ray, Babu Khetter Mohan.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Rout, Babu Hemoi.
Roy, Babu Satyendra Nath.
Shah, Maulvi Abdu' Hamid.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Mr. Altaf.
Armstrong, Mr. W. L.
Austin, Mr. J. M.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Blandy, Mr. E. M.
Chaudhuri, Khan Bahadur Maulvi Ali-muzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Das, Rai Bahadur Kamini Kumar.
Eusufji, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Forrester, Mr. J. Campbell.
Gangali, Rai Bahadur Susil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdel-kerim.
Gilchrist, Mr. R. N.
Guha, Babu Profulla Kumar.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hossain, Maulvi Muhammad.
Huq, Mr. A. K. Fazl-ul.
Kerr, Mr. W. J.
Khan, Maulvi Amin-uz-Zaman.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razzur Rahman.
Leeson, Mr. G. W.
Maguire, Mr. L. T.
Mitter, the Hon'ble Sir Provash Chunder.
Momin, Khan Bahadur Muhammad Abdul.
Mortimer, Mr. H. R.
Mullick, Mr. Mukunda Behary.
Nag, Reverend B. A.
Nazimuddin, the Hon'ble Mr. Khwaja.
Petre, Mr. S. F.
Philpot, Mr. H. C. V.
Rahman, Mr. A. F. M. Abdur-.
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Ray Chowdhury Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Ross, Mr. J.
Roy, Mr. Saileswar Singh.
Ray, Mr. Sarat Kumar.
Ray, the Hon'ble Mr. Bijay Prasad Singh.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rebati Mahan.
Sen, Mr. B. R.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Solaiman, Maulvi Muhammad.
Stapleton, Mr. H. E.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 25 and the Noes 62 the motion was lost.

Mr. PRESIDENT: The question is that clause 5A as amended by the Council, should be renumbered as clause 8A and stand part of the Bill.

The motion was put and agreed to.

5-30 p.m.

Clause 6.

Mr. PRESIDENT: The question is that clause 6 stand part of the Bill.

Mr. P. BANERJI: I beg to move that clause 6 be omitted. In doing so I beg to submit that it is another dangerous provision. It has been decided that Government will take possession of any house that it may like in order to provide room for their soldiery, but now it is proposed that even the owner of a house which has been taken possession of by Government will not be allowed to come even near the building. Not

only in his presence near his own building prohibited, but even if he happens to come in contact with civil resisters there is a chance of his being shot dead. Therefore it is a dangerous clause and should be deleted.

The Hon'ble Mr. R. N. REID: I beg to oppose this motion, Sir. The clause is intended to provide for precaution against attack, while dealing with a dangerous conspiracy. I think, Sir, it is an obvious precaution to take and I cannot see any reason why this should be omitted.

The motion of Mr. P. Banerji was put and lost.

Mr. PRESIDENT: The question is that clause 6 stand part of the Bill.

The motion was put and agreed to.

Clause 7.

Mr. PRESIDENT: The question is that clause 7 stand part of the Bill.

The motion was put and agreed to.

Clause 8.

Mr. PRESIDENT: The question is that clause 8 stand part of the Bill.

Mr. P. BANERJI: I move that clause 8 be omitted. My reasons for doing so are that it has been found from experience that during the last civil disobedience movement many owners of vehicles were given notice and were penalised by Government for carrying passengers who put on *khaddar* or Gandhi caps. Several questions on this subject were put by Mr. R. Maiti to the Hon'ble Member in charge of the Police Department why people who wore Gandhi caps and travelled by certain 'buses were penalised. I know of a case, Sir, where a 'bus took such passengers from Balda to Contai and the owners of those 'buses who were living at a great distance and who did not know what was happening were penalised. Therefore, I say, Sir, this provision should be deleted, together with sub-clause (*2*).

The Hon'ble Mr. R. N. REID: I beg to oppose this motion on the same grounds as I put forward in case of proposed omission of clauses 4, 5 and 6. It is an essential part of the Bill that this clause should be there and I do not think it is likely to be abused as Mr. Banerji apprehends.

The motion of Mr. P. Banerji was put and lost.

Mr. NARENDRA KUMAR BASU: I beg to move that clause 8 (*2*) be omitted. Sir, my principal reason for moving this amendment is that, not being familiar with the English language, I do not understand what is meant by this clause. This clause says "the District Magistrate, if in his opinion it is expedient for the purposes of this Act, may by order in writing require any person owning or having in his possession or under his control any vehicle or means of transport to take such order there with for such period and as may be specified in the order". I am afraid, not being very familiar with the English language, I do not profess to know what this may mean—whether it means that the owner may be directed to keep his car or his horse-drawn carriage not in the garage or stable but on the house-top, whether the motor car may be directed to have several of its parts or plugs removed, or what—"take such order as may be specified in the order," I confess I cannot follow it, and therefore I think that, as this clause will have to be worked by the District Magistrate, which expression under clause 16 of the Bill should mean any Subdivisional Officer or Police officer or any military officer not below the rank of Captain, or under clause 3, any Government officer, many of whom are likely to be my countrymen, and as unfamiliar with the English language as myself, this should be omitted.

The Hon'ble Mr. R. N. REID: I cannot believe that Mr. N. K. Basu really feels any difficulty in understanding this clause. This expression, as far as I know, is not very unusual and my own view is that it simply means that the owner of a motor car or a carriage for instance——

Mr. NARENDRA KUMAR BASU: While the Hon'ble Mr. Reid himself cannot express it in simple language, is it not difficult for ordinary people to understand it?

The Hon'ble Mr. R. N. REID: In simple language it would mean that for instance the owner of a motor car or a carriage, under orders of the District Magistrate, shall keep his car in his garage at the specified time or shall not use it for certain purposes or at certain times forbidden by the District Officer.

Mr. NARENDRA KUMAR BASU: But why not use more intelligible language?

The Hon'ble Mr. R. N. REID: It also might require that the owner shall place his car at the disposal of the authorities when needed.

Mr. SHANTI SHEKHARESWAR RAY: It appears that this provision is the outcome of the combined wisdom of the Government of Bengal and of the Government of India, because we are told that this Bill is based on the Ordinance, and as we find that the Hon'ble Mr. Reid himself is unable to clear the point as to what is the real intention of the Bill on the subject. If it is the intention of Government that they can ask the owners of private carriages and motor cars to place them at the disposal of the local authorities, that point should be made clear, and in cases of urgent necessity there should not be any objection on the part of the loyal subjects to place such vehicles at the disposal of Government or the local authorities. But in the case of vehicles that ply for hire it is only fair that Government should pay hire or pay a reasonable compensation. If that be the intention there will be no objection so far as this clause is concerned.

The Hon'ble Mr. R. N. REID: I may point out that reasonable compensation has been provided for in the Bill.

The motion of Mr. Narendra Kumar Basu was put and lost.

Mr. PRESIDENT: The question is that clause 8 stand part of the Bill.

The motion was put and agreed to

Clause 9.

Mr. PRESIDENT: The question is that clause 9 stand part of the Bill.

The motion was put and agreed to.

Clause 10.

Mr. PRESIDENT: The question is that clause 10 stand part of the Bill.

5-45 p.m.

Mr. P. BANERJI: Sir, I beg to move that clause 10 be omitted. This clause contemplates that every person, I mean, who is a landlord or member of any of the local bodies, namely, district boards, local boards, union boards including the servants of such bodies or any officer, any teacher, any schoolmaster or college professor or teacher of

a *muktab* or *tol* or of any educational institution have to help Government to maintain law and order. The introduction of this very clause admits that the Government to-day has failed to administer law and order in the land. Government has got a sufficient number of police officers and year after year we are here sanctioning large amounts of money to maintain law and order and the police budget has reached so much as 25 per cent. of the revenues of the province; still the Government says that they have failed to administer law and order in this country. Therefore all persons, who do not like, under the present circumstances, to see eye to eye with Government or plainly speaking do not like to co-operate with Government in the way they have been administering justice, are compelled under this Act to do certain things for the Government; not certainly for the purpose of maintaining law and order in the country but with a view to retaliate for their political opinions. Therefore such a law is very dangerous and instead of bringing peace in the country and helping law and order I consider that lawlessness and disorder will greatly increase. Therefore I oppose this clause and think that it should be deleted.

The Hon'ble Mr. R. N. REID: Sir, I beg to oppose this amendment. The clause, as it stands, provides for nothing more than what every citizen has to do in assisting the authorities to resist force and disorder. Naturally I think, therefore, there can be no real objection to this clause. I would again ask the House to accept my assurance that it is not likely and certainly not intended that this clause would be utilised to penalise people for their political opinions.

Mr. SYAMAPROSAD MOOKERJEE: Sir, may I just say a few words? The Hon'ble Mr. Reid is perfectly right in saying that the normal duty of a citizen is to assist Government in the maintenance of law and order. That would no doubt be so under normal conditions; but when the drastic provisions as contained in this Bill are deliberately put on the Statute Book for the purpose of harassing ordinary citizens, it is hardly fair to expect that such co-operation would be forthcoming. There is one aspect of this clause which has a grim humour in it. You will find that the clause is divided into two parts. In the first place, co-operation is asked for in the restoration and maintenance of law and order, and, in the second place, in the protection of property in the possession or under the control of Government or of any railway administration or local authority. There is no mention of any protection of properties belonging to private individuals. The reason is obvious. It seems that destruction of individual property is one of the objects of the Bill. I wish the Hon'ble Member would explain this point.

The motion of Mr. P. Banerji was then put and lost.

Mr. S. M. BOSE: I beg to move that in clause 10, lines 1 to 4, for the words beginning with "landholders" and ending with "educational institution," the word "person" be substituted.

My object in moving this amendment is to draw attention to the invidious distinction sought to be drawn in this clause between landholders, members of local authority and school-masters on the one hand and the general public on the other. As the Hon'ble Member has pointed out, may I call attention to section 42 of the Criminal Procedure Code, under which every person is bound to assist a Magistrate or Police officer reasonably demanding his aid in the taking or preventing escape of a person to be arrested, in the prevention or suppression of breach of peace or prevention of attempted injury to railway, canal, telegraph or public property. So I submit, under the general law, there exists a duty generally of persons to help Government in the above matters and from this point of view, this clause would seem to be superfluous.

But here in this clause, the general liability of every person is sought to be fastened specifically on certain persons, viz., landholders, members, officers and servants of a local authority or any school or college teacher. I do not see, for instance, why Munindra Deb Rai Mahasai, because he is the Chairman of the Bansberia Municipality, should be specifically asked, apart from other persons, to render such help. I do not see any reason for this invidious distinction. I propose that these words be omitted. Why should the member of a local or district board or a municipality be made specially liable? Why should a school-master be so made liable?

I therefore propose that these words be omitted.

Mr. PRESIDENT: I would like to have one discussion on motions Nos. 74 to 80.

Mr. NARENDRA KUMAR BASU: Sir, before I move the amendment that stands against my name I crave your leave to oppose the amendment which has been moved by my friend, Mr. S. M. Bose. Mr. Bose's reading of the section 42 of the Criminal Procedure Code is rather amazing. Section 42, Criminal Procedure Code, requires every person to help a Magistrate or a Police officer in the taking or preventing the escape of any other person whom such a Magistrate or a Police officer is authorised to arrest; in the prevention or suppression of breach of the peace or in the prevention of any injury which may be committed to any railway, canal, telegraph or public property. So the provision is not so extensive nor on the same lines with the powers given under

clause 10 of the Bill. I hope, Sir, that my friend will not persist in thinking that clause 10 of this Bill and the section 42 of the Criminal Procedure Code are the same. I do not know how my friend got this idea that the powers given to the District Magistrate under clause 10 of this Bill are the same as any Magistrate or Police officer may exercise under section 42 of the Criminal Procedure Code. He has, if I may say so, out-Heroded Herod and I think that his great insistence on helping the Local Government to try and entrap all people under clause 10 will meet with due and early reward. However that may be, Sir, I do not think that there is anybody, else except among the officials, who will persist in thinking that clause 10 gives the same powers as section 42 of the Criminal Procedure Code.

As regards my own amendment which runs as follows: "That in clause 10, lines 1 and 2, after the word "landholder" the words 'residing within the district' be inserted," I think the addition I propose, namely, "residing within the district" is absolutely necessary, because, as we know, many landlords in Bengal are non-resident landlords; and supposing this section were extended to the district of Bankura where, I understand, the Maharajadhiraja of Durbhanga has some property, the section would enable the District Magistrate of Bankura to whom the powers may be delegated or any military officer not below the rank of a Captain to whom such powers may also be delegated, may require the Maharajadhiraja of Durbhanga to stand on sentry duty over some bridge in Bankura. I do not think that that is intended by the Government. I do not think also that Government intends that all absentee landlords should be made to stand guard in local board offices; if that be so, I think there would be no difficulty in inserting the words I proposed.

Babu SATYENDRA NATH ROY: Sir, I beg to support the amendment moved by Mr. N. K. Basu. For the reasons already stated by my friend, Mr. Basu, I think it would be very unjust and it would be a matter of great hardship if the absentee landlords be compelled to render the assistance provided in this clause, namely, to assist in the restoration and maintenance of law and order and the protection of property in the possession or under the control of railway administration or of local bodies. Supposing, Sir, a landlord be in Calcutta and anything happens in Chittagong—it may be that the landlord never visits his zamindari—what will happen in his case. Supposing a landlord was thousands of miles away in Simla or somewhere else where he goes for recouping his health. So I think it would be very hard and unjust to require absentee landlords to assist in the way provided in this clause. With these words I support the motion of Mr. N. K. Basu and oppose the motion moved by Mr. S. M. Bose, by which he wants to cast the net wider and get all the fish.

MUNINDRA DEB RAI MAHASAI: I beg to support the amendment of Mr. N. K. Basu. Generally zamindars have got landed properties in various districts. If this provision found a place in the Statute Book it would be very unfair to require the absentee zamindar to assist in the maintenance of law and order and in the protection of property in the possession or under the control of Government or of any railway administration or local authority in such manner and within such limits as the District Magistrate may specify. This is a dangerous section for absentee zamindars and should be deleted. To penalise them for no fault of theirs would be most unreasonable and unfair. The penalty for non-compliance with the orders of the District Magistrate is imprisonment for six months or fine or both. This is a most drastic provision and therefore the amendment that after the word "landholder" the words "residing within the district" should be accepted.

6 p.m.

The Hon'ble Mr. R. N. REID: I may say, Sir, that Government are prepared to accept amendment of Mr. S. M. Bose with a slight change so as to substitute the words "person residing within the district." It does away with the invidious distinction and brings it into line with the clause as it stands. I think, indeed this will make it a better clause. As regards the words "within the district," it will make I would imagine little difference, in practice. I am not sure about the legal aspect of the question, but a District Magistrate does not usually issue orders outside his jurisdiction.

Mr. PRESIDENT: Would you move it as your own amendment combining the two into one?

The Hon'ble Mr. R. N. REID: I beg to move that in clause 10, lines 1 to 4, for the words beginning with "landholder" and ending with "educational institution," the words "person residing in the district" be substituted.

The motion of the Hon'ble Mr. R. N. Reid was then put and a division taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Austin, Mr. J. M.
Bal, Babu Lalit Kumar.
Bayrad, Rai Sahib Panchanan.
Bazir Uddin, Khan Sahib Maulvi Mohammad.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Das, Rai Bahadur Kamini Kumar.

Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Forrester, Mr. J. Campbell.
Ganguli, Rai Bahadur Sushil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Guha, Mr. P. N.
Henderson, Mr. A. G. R.
Kerr, Mr. W. J.
Khan, Maulvi Amin-uz-Zaman.
Khan, Mr. Razaur Rahman.
Leeson, Mr. G. W.
Maguire, Mr. L. T.
Mitter, the Hon'ble Sir Provash Chunder.
Mittra, Babu Sarat Chandra.
Mortimer, Mr. H. R.
Mullick, Mr. Mukunda Behary.
Nag, Reverend S. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Petre, Mr. B. P.
Philpot, Mr. H. C. V.
Rahman, Mr. A. F. M. Abdur-.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Ray Chowdhury, Babu Satish Chandra.
Ray Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Rees, Mr. J.
Ray, Mr. Sarat Kumar.
Rey, the Hon'ble Mr. Bijoy Prasad Singh.
Sandatullah, Maulvi Muhammad.
Sahana, Babu Satya Kinkar.
Sarkar, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Solaiman, Maulvi Muhammad.
Stapleton, Mr. H. E.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

NOES.

Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chatterjee, Mr. S. C.
Choudhuri, Babu Kishori Mohan.
Chaudhuri, Khan Bahadur Maulvi Ali-muzzaman.
Chaudhuri, Maulvi Syed Osman Haider.
Choudhury, Maulvi Nural Absar.
Faziullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Guha, Babu Profulla Kumar.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Haque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Mug, Mr. A. K. Pari-ul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Momin, Khan Bahadur Muhammad Abdul.
Mookerjee, Mr. Syamaprosad.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Babu Suk Lal.
Poddar, Mr. Ananda Mohan.
Rahman, Maulvi Azizur.
Rai Mahasai, Munindra Deb.
Ray, Babu Amulyadhan.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hemoni.
Roy, Babu Satyendra Nath.
Shah, Maulvi Abdul Hamid.

The Ayes being 55 and the Noes 31 the motion was carried.

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. Can this amendment be accepted without the sanction of the Government of India?

Mr. PRESIDENT: I think sanction has been obtained.

The motion of Mr. S. M. Bose and Mr. Narendra Kumar Basu therefore failed.

Mr. SHANTI SHEKHARESWAR RAY: I beg to move that in clause 10, line 4, for the word "assist" the words "render reasonable assistance" be substituted.

In normal times, Sir, I would not have come forward with an amendment of this nature, but this is an abnormal measure and we are living in abnormal times. So, I move this amendment.

The Hon'ble Mr. R. N. REID: I oppose this amendment. I do not think there is very much difference between the wording of the amendment and the wording, as it is, in the clause.

The motion of Mr. Shanti Shekhareswar Ray was put and lost.

Babu SATYA KINKAR SAHANA: I beg to move that in clause 10, line 4, after the word "assist," the words "compatible with his physical fitness" be inserted.

In this clause power to require the assistance of certain persons in the restoration of law and order is asked for. I would like to have welcomed the clause. I hope it will increase mutual knowledge and confidence and will dispell to some extent the dark cloud of suspicion and distrust hanging over the people and the Government. But, Sir, everything will depend on the spirit in which the assistance will be required; if required in a friendly and considerate spirit, the expected heaven may be reached; but if it be required in an unchristian retaliative spirit, the fire of the other place may be kindled in our unfortunate province. Sir, I hope, there will be many in the province willing to assist Government officials in the restoration and maintenance of law; but I think there may be some who, though willing in mind, would be weak in body to render the necessary amount of assistance that may be expected of them or they might be willing to render. In such cases, some consideration for their physical weakness will go a long way to create a healthier atmosphere in the country. But the least inconsideration, I am afraid, will lend a handle to the agitators to spread more discontent. With this object of bringing in a better atmosphere and safeguarding against the inroads of agitators, I commend my motion to the consideration of the House.

The Hon'ble Mr. R. N. REID: On this particular point I ought to explain the position of Government. I understand Mr. S. M. Bose is prepared to move his amendment No. 88 with some addition, and Government are prepared to accept that. The amended form will run thus:

"That after clause 10, the following be added, namely:—

'Provided that before passing any order under this section the District Magistrate shall satisfy himself that such order is not of a harassing or humiliating nature or incompatible with the ability or position in life of the person concerned;' "

I understand that this is acceptable.

Mr. PRESIDENT: Is it your idea that in case that amendment is accepted, then the amendments up to 92 need not be moved?

The Hon'ble Mr. R. N. REID: Yes.

Babu SATYA KINKAR SAHANA: If amendment No. 88 be accepted, I beg leave of the House to withdraw my amendment.

The motion of Babu Satya Kinkar Sahana was, by leave of the Council, withdrawn.

6-15 p.m.

Mr. S. M. BOSE: I beg to move that after clause 10 the following be added, namely:—

"Provided that before passing any order under this section the District Magistrate shall satisfy himself that such order is not of a harassing or humiliating nature or incompatible with the ability or position in life of the person concerned."

Mr. SYAMAPROSAD MOOKERJEE: The amendment of Mr. Bose is all right as it stands. But may I draw the attention of the Hon'ble Member to amendment No. 89? There mention is made that no female, aged or any diseased person will be required to render any assistance. So far as those persons are concerned they are met by the amendment of Mr. Bose. I move that a further proviso be added that "no such assistance be required from any female person."

The Hon'ble Mr. R. N. REID: I think this is covered by the words "incompatible with the person's position in life."

Mr. NARENDRA KUMAR BASU: Position in life does not mean the same thing. It is better to have it cleared.

The Hon'ble Mr. R. N. REID: I am not in a position to clear it up.

The motion of Mr. S. M. Bose was put and agreed to.

Mr. PRESIDENT: Do I take it that amendments up to 92 will not be moved.

Mr. SYAMAPROSAD MOOKERJEE: May I with your permission move that a further proviso be added that "no female will be required to render any such assistance." The explanation given by the Hon'ble Member in connection with the previous amendment, I am afraid, is not at all satisfactory. All that he states is that no such work will be assigned to anybody which is incompatible with the person's position in life and ability. But that does not exclude the possibility of a female person being called upon to render any assistance if the officer so desire. If this discretion had been reserved for the District Magistrate alone, perhaps there would have been no necessity for moving this amendment.

But in view of the drastic provisions for delegation of duties laying down that the powers of the District Magistrate may be exercised by the subordinate officers of Government, it is very necessary that there should be a clear direction that no female person should be asked to render any assistance. What I ask Mr. Reid to seriously consider is that if any such assistance is called for by any subordinate officer of Government, it will be the Hon'ble Member who will have to offer an explanation to the House. If the Hon'ble Member does really intend that there may be occasions when such assistance may have to be called for, it is no good taking shelter under the previous amendment and saying that that amendment also includes the case of a female person. Let him say so openly. But I do not think any Indian member of this House would desire that there should be any such clause in this Bill. It is very desirable that the point should be clearly embodied in the clause.

The Hon'ble Mr. R. N. REID: I am afraid I do not see my way to accept it. There is no intention of demanding assistance from a female that comes under this clause. It is not in the least degree likely that the District Magistrate would call upon any female to carry out the duties which are intended should be done under the provisions of this clause. I do not see that this amendment is at all necessary.

Mr. NARENDRA KUMAR BASU: Having regard to what Mr. Reid stated I do not understand the reason for his objection to this amendment. It is not the intention of Government to call any female to render assistance but we all know that the good intentions of Government are very often frustrated by the bad motives of the junior officers and, as my friend has pointed out, under clause 16 the powers of delegation are so very wide that the powers conferred on a District Magistrate by this clause may in practice be exercised by persons who may not have the good intentions of the good Home Member, and who may take it that when the clause under the Act is passed he is not bound to take any notice of the intentions of the Home Member as expressed in the House. More especially if the officer to whom the power is delegated is a military officer, if you will permit me to use the expression, he will not care a damn for the intentions of the Home Member how that power will be used. If it is really the intention of Government to impress any female for the purpose of rendering assistance, I see no reason for not honestly saying that. We are hearing of the good intentions for a century and a half. We have had enough of them. Let us have acts and deeds instead of intentions.

Mr. A. K. FAZL-UL HUQ: I would like to make a last appeal to the Hon'ble Member to consider in view of the feelings of the Indian members of this House whether he cannot accept the amendment. The

amendment wants to add a proviso to the amendment of Mr. S. M. Bose, which has been accepted. We have got, and the Hon'ble Member is certainly aware of it, a great deal of prejudice so far as the females are concerned and I do not conceive that it can be the intention of Government to commandeer the services of any females on any occasion. We cannot conceive of any reason that the services of the females can be commandeered. That is a matter which has been fully discussed. If this motion is defeated, people will get the impression that the discretion of the officer to commandeer the assistance of the females, if that is necessary, is the intention of Government. If that is not the intention, I make an appeal to the Hon'ble Member to accept this amendment which, I think, will have the support of all the Indian members of the House.

The Hon'ble Mr. R. N. REID: As there has been considerable feeling in this matter or calling upon a female to render assistance, I am prepared to meet the wishes of the House and accept the amendment which will read thus:—

"That after the proviso to clause 10 the following be added, namely:—

'Provided also that no female person shall be required to render any assistance.'"

The motion was then put and agreed to.

Mr. PRESIDENT: The question is that clause 10, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 11.

Mr. PRESIDENT: The question is that clause 11 stand part of the Bill.

Rai Bahadur KAMINI KUMAR DAS: I beg to move that to clause 11 the following be added, namely:—

"The Magistrate may after the search give to the person concerned the substance of the information which led to the search."

My amendment does not in any way stand in the way of giving full effect to clause 11. My proviso if accepted will be helpful both to the Government and the public. It will be in no way objectionable. I do not insist on getting the names of the informants. I do not press for specific information which may trace out the informant. It will be

helpful to Government because if the owner of a house be informed that the object of the search was to find out an undesirable person then the owner may see his way to drive the man away and will give him no shelter and if the object be to find out any objectionable article then in that case also the owner of the house may be on his guard to see that no such articles be brought into his house. On the other hand if the information appears to the owner to be maliciously false then he will have an opportunity of submitting to the Magistrate why the information was lodged.

The Hon'ble Mr. R. N. REID: I beg to oppose this motion. It merely proposes to empower the District Magistrate to give the substance of the information which led to the search of the person concerned. That is permissible any how. He is always in a position to give information of the search; so I do not see any reason to add these words to the clause.

Rai Bahadur KAMINI KUMAR DAS: I beg leave of the House to withdraw my motion.

The motion was then, by leave of the Council, withdrawn.

Mr. PRESIDENT: The question is that clause 11 stand part of the Bill.

The motion was put and agreed to.

Clause 12.

Mr. PRESIDENT: The question is that clause 12 stand part of the Bill.

Mr. HARENDRA KUMAR BASU: I beg to move that in clause 12, line 2, after the word "person" the words "not below the rank of a head constable" be inserted.

I think Mr. Reid will have noticed that under section 98 of the Criminal Procedure Code any search warrant can be issued by any officer above the rank of a constable. I do not see it is vitally necessary that a search warrant under this clause should be addressed to any constable. I therefore move that the words "not below the rank of a head constable" be inserted.

The Hon'ble Mr. R. N. REID: The only point I have to make with regard to this is, as I have said, that this amendment attempts to deal with cases of emergency, in which cases it is not always possible practically to get the officer of the rank which might be laid down in the

Bill. Government do not want to deprive themselves of the power to authorise an officer of lower rank, viz., a head constable, for this purpose.

On these grounds I oppose the amendment.

The motion of Mr. Narendra Kumar Basu was then put and lost.

Mr. ANANDA MOHAN PODDAR: I beg to move that after clause 12 the following be added, namely:—

"Provided that in effecting the search due regard shall be paid to the *purdah* of the females as well as to the religious belief and sentiments of the members of the family and no injury shall be caused to their properties."

This clause empowers the authorities to authorise any person to enter and search any place which they may think necessary. Sir, the Criminal Procedure Code lays down elaborate provisions with regard to searches and I do not see why that procedure should not be followed. Searches should be as much legal and as much above suspicion as possible. But here the Government proposes to empower itself with very drastic powers not at all compatible with the provisions of the Criminal Procedure Code. It proposes that any person may enter and search any place—and no procedure is laid down for the conduct of such search.

Sir, it is common knowledge that the Police when authorised to search any place do behave in a manner which is not at all consistent with the dignity of an efficient force. They often put the members of the family to much indignities and harassment. They deal with the person under suspicion or arrest as if he is a convict. During the search the doors and boxes, etc., are broken open, furniture are scattered away and much injury is done to household properties. Even the *purdah* of the females are sometimes ignored.

Sir, my request is a very simple one. In effecting the search the searching party should pay due regard to the *purdah* of the females and should not do any injury to the properties of the family. By accepting this amendment the Hon'ble Member will only show that Government is eager to ensure the public their proper rights and liberties in such emergencies.

The Hon'ble Mr. R. N. REID: I beg to oppose the motion. The Criminal Procedure Code is not ousted by this clause and the ordinary rules of searches will apply. Besides that the much-abused police have definite and strict rules of their own about conducting searches and I do not think that the inclusion of a provision like this in this Bill would add any effective protection.

[At 6-45 p.m. the Council was adjourned for prayer and it reassembled at 6-55 p.m.]

Rai Bahadur SATYENDRA KUMAR DAS: Sir, this clause empowers any person to enter and search any place. Any place naturally does not exclude the rooms in a house where the women folk live. Now, Sir, *purdah* is observed by our women folk, both amongst Hindus and Muhammadans. Therefore I submit that in effecting searches due regard should be paid to the *purdah* for secrecy of the females. Sir, it has been said that the house of an Englishman is a castle. If that be so, then the house of a Hindu is a temple and that of a Muhammadan a mosque, and I suggest that in effecting a search due regard should be paid to the religious feelings and sentiments of the members of the family. I further suggest, Sir, that no injury shall be caused to the person or property of those who will be searched. In making this suggestion I hope I have made the minimum suggestion which a Government with the least pretensions to a civilised form of administration must adopt.

The motion of Mr. Ananda Mohan Poddar was then put and lost.

Mr. PRESIDENT: The question is that clause 12 stand part of the Bill.

The motion was put and agreed to.

Clause 13.

Mr. PRESIDENT: The question is that clause 13 stand part of the Bill.

Mr. S. M. BOSE: I beg to move that clause 13 be omitted.

Sir, this is a dangerously vague clause and exposes a person to undefined, unknown pains and penalties. One of the accepted principles of criminal law is that the penalty should be certain and known so that it may act as deterrent. But in clause 13, we find the amount and nature of the penalty is left entirely at the absolute discretion of the authority giving the order. I submit the person in default should be punished under the law and not left exposed to undefined punishment. The clause as worded may be taken to sanction reprisals. For instance, under clause 3 of the Bill, *A* is ordered by an official to give an account of his identity and movements. *A* refuses to do so. Then under clause 13, the proper authority would apparently be empowered to take such action as it may think necessary to make him speak the truth. Would that authority be entitled to put pressure to force *A* to speak? Would that authority be entitled, in case *A* says what he considers to be untrue, to put further pressure on *A* to make him confess the truth? Does this clause I ask authorise any and every means? Does this go to the length of authorising "the third degree" or reprisals with a view to enforce obedience. I do

not suggest that this will be done. All I say is that the clause as it stands covers *every act*, every undefined vague act of the authority. This reminds one of the state of absolute executive power during the time of Louis XVI.

Further, I submit that as we have clause 15 providing for definite penalty, clause 13 should be omitted.

Finally, note that under clause 16, the powers of the District Magistrate may be delegated to a certain police or military officer of high rank. Under clause 3, which has been passed as it stands, any Government officer specially authorised may order a person to give information; so that under clause 13 the police or military officer mentioned in clause 16 or any Government officer as mentioned in clause 3 may take any action he thinks fit to enforce compliance.

I, therefore, submit that this clause confers vague, indefinite, undefined powers and is highly objectionable and so this clause should be deleted.

The Hon'ble Mr. R. N. REID: Sir, I beg to oppose this motion for omitting clause 13. I can say straightaway that it is not intended to sanction reprisals and I do think that the mover has drawn on his imagination to a large extent in the picture which he has given us of the possible ways in which this clause might be abused. The relevant part of this clause is very similar to clauses which I think are in the Bengal Municipal Act, by which the local authority is given power, when a householder fails to carry out some orders of the local authority, to have those orders carried out. That is the sort of thing contemplated by this clause and nothing else. Here also if the District Magistrate or any other authority issues an order to an individual and that individual fails to carry out the orders, then under this clause the authority will proceed to take action to give effect to the order. That is all that this clause seeks to do.

Mr. NARENDRA KUMAR BASU: I beg to support the amendment moved by Mr. S. M. Bose. If I may say so, the comparison drawn by Mr. Reid between the powers given in the Bengal Municipal Act for compelling persons to carry out orders regarding the cleansing of latrines, etc., and the authority given by this clause to every civil and military officer of Government to compel people to carry out their order is extremely far-fetched. I do not know what to marvel at most —the naive innocence of Mr. Reid or the delightful vagueness of the language of the clause. We have again and again heard Mr. Reid to say that it is not the intention of Government to use these provisions without justification. We have heard of the good intentions of Government in connection with every line of this Bill, but, Sir, good intentions

like hard words do not break any bones, and it is necessary to have something in the Bill to demonstrate the good intentions of Government. We have all heard of the floor of a certain place being paved with good intentions and every clause of this Bill when enacted will be similarly paved. As it is, this clause really gives a blank cheque to the subordinate officers of Government and I do think that even in the case of an emergency such as is visualised by Government—and this state of emergency has been there for the last 10 years and bids fair to be the normal condition of the province for many years to come—these large powers cannot be entrusted to subordinate police officers.

7 p.m.

Babu SATISH CHANDRA RAY CHOWDHURI: Sir, I beg to support the motion. Not only is it not defined who can arrest a man and keep him confined up to a certain period of time, but it has also been provided that a District Magistrate may authorise any of his subordinate officers and invest him with any of the large powers that have been given to him; so that if this motion is carried, it will practically take away the liberty of individual persons. The powers are proposed to be enforced not by any definite procedure or by any definite rule, and these will therefore surely give rise to abuse. I submit that this will leave no safeguard to the ordinary citizen for the protection of his ordinary rights. On account of the vagueness of the drafting, as also on account of the undefined character of the methods by which the large powers are going to be enforced and delegated to any subordinate officer, I think a provision like this exceeds the requirements of the case and is likely to be used as a dangerous weapon in the hands of the Police subordinates. I accordingly think that the provision is unnecessary and should go out.

Mr. H. S. SUHRAWARDY: It is with the greatest regret that I feel constrained to oppose the amendment, and I do so on the sole ground that I consider this and similar amendments unnecessary. The Bill as framed is such a gross infringement on personal liberty that if it is abused and worked in the wrong spirit, it can be a terrible machinery for oppression; such oppression that public opinion will not tolerate it. After all, no law can function unless it has the sanction of public opinion behind it. If we allow our imagination to run riot, and consider possibilities which might arise if the powers are exercised to the fullest and most logical extent, then we must stand aghast at the picture that we have created, and can have no alternative but to oppose the Bill altogether. But after all, these powers are meant to be used and not abused. These powers have been in operation, and we have not heard of instances of the Maharajah of Durbhanga or of Mymensingh having had to stand guard over a bridge. After all, the

District Magistrates know that although they have considerable powers they must use them with discretion and moderation and not exacerbate public feeling, and ultimately they will have to account for their deeds not only to the public, but to their superior officers and to this Council. And it must be said to the credit of the officers that have been exercising these powers, that they have done so with moderation and with a certain regard for public feeling and opinion. It is in the spirit in which the Act is administered that really lies the safety of the citizens, and not in amendments introduced to meet possible contingencies, or in whittling down powers here and there. What is there in the Bill apart from this clause is quite enough to be a very serious encroachment on the public rights of citizens, and whether this clause is incorporated or not, I think it makes very little difference if the Act is worked in the proper spirit.

Mr. SYAMAPROSAD MOOKERJEE: While listening to Mr. Suhrawardy I was wondering at what conclusion he was going to arrive. I find, Sir, that there was a certain conflict in his mind—perhaps a conflict between his legal conscience and his practical wisdom! The latter of course prevailed and he ended by obviously supporting this particular provision in the Bill. But, Sir, I do feel that this is one of the most dangerous provisions. The fact is not that as Mr. Suhrawardy says, the District Magistrate in acting under this clause, will have due regard to the opinion of Government or of the Legislative Council; the fact is that the powers of the District Magistrate, as we have said repeatedly, are under the provisions of this Bill liable to be delegated to any subordinate officer. Under a previous clause, if any person disobeys or neglects to comply with the directions given him, then such authority, whoever he may be, not necessarily the District Magistrate—it may be one of the subordinate officers of Government—may take such action as he thinks necessary to give effect to his orders. The reason, Sir, why we are insisting that this clause should be omitted is our apprehension that this may be applied in regard to innocent persons. That is one of the great dangers of a provision of this character. The Hon'ble the Home Member says that it is not his intention to legalise or approve of reprisals. We know of course that a due warning was given against any such possibility by no less a person than His Excellency the Governor in his recent Dacca speech but we are anxious that no temptation to retaliate should be held out before the police officers. We should rather make it impossible for them to behave in a manner which would amount to reprisal in the long run. I do not really understand, and the Hon'ble Member has not explained, what is the necessity of having a clause of this description at all. If you look at clause 15, there is ample provision for penalising any body who disobeys an order under this chapter. If a person dares disobey an order of an officer he shall

be punished under clause 15. He may be punished with imprisonment for six months or with fine, or with both. Then, why give this undefined, indefinite and vague power to any subordinate Police officer to deal with persons in any way he likes? That is the point which we desire to press upon the Government, but I do not think the Hon'ble Member will be reasonable enough to accept this amendment, as he has done with regard to some others.

The motion of Mr. S. M. Bose was then put and a division taken with the following result:—

AYES.

Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chaudhuri, Babu Kisheri Mohan.
Choudhury, Maulvi Nurul Absar.
Faziullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Maiti, Mr. R.
Mookerjee, Mr. Syamaprosad.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Poddar, Mr. Ananda Mohan.
Rai Mahasai, Munindra Deb.
Ray, Babu Khetter Mohan.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Roy, Babu Satyendra Nath.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Bal, Babu Lalit Kumar.
Barma, Rai Sahib Panchanan.
Blandy, Mr. E. N.
Burn, Mr. H. H
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chaudhuri, Maulvi Syed Osman Haider.
Choudhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Das, Rai Bahadur Kamini Kumar.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Parsons, Mr. L. R.
Forrester, Mr. J. Campbell.
Ganguli, Rai Bahadur Sunil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Guha, Mr. P. N.
Hasan, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hog, Mr. A. K. Fazl-ul.
Kerr, Mr. W. J.
Khan, Maulvi Amin-ur-Zaman.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Khan, Mr. Razaur Rahman.
Lesson, Mr. G. W.
Maguire, Mr. L. T.
Mitter, the Hon'ble Sir Provash Chunder.
Momin, Khan Bahadur Muhammad Abdul.
Mortimer, Mr. H. R.
Mullick, Mr. Muhunda Behary.
Nag, Reverend S. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. C. V.
Rahman, Mr. A. F. M. Abdur.
Ray, Babu Amulyadhan.
Ray, Babu Ragendra Narayan.
Reid, the Hon'ble Mr. R. N.
Rees, Mr. J.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Stapleton, Mr. H. E.
Suhrawardy, Mr. H. S.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

The Ayes being 20 and the Noes 57 the motion was lost.

7-15 p.m.

Maulvi TAMIZUDDIN KHAN: Sir, I beg to move that for clause 13 the following be substituted, namely:—

"13. If an order made, direction given or condition prescribed, in accordance with the provisions of this chapter is not complied with, the authority which made the order, gave the direction or prescribed the condition may take or cause to be taken such action as it thinks necessary and proper to give effect thereto."

This amendment is not very different from the original clause itself. So far as the intention of this clause is concerned it seems to me that if a certain order is made or some direction is given some means should be found to see that the directions or orders are actually carried out. But the manner in which this clause has been drafted seems to be objectionable, from the manner in which the clause begins the intention seems to be to punish the persons who disobey the orders or the directions given, but actually there is no provision for that in this clause. The real intention of this clause, as I have already said, is to see that the directions or orders given are carried out; but in the actual drafting there seems to be a confusion of ideas in this clause. On the one hand the idea seems to be that means must be found for carrying out certain orders given and on the other there is also the other idea that the offender who disobeys the orders is to be punished. There is a blend of both these ideas in this clause and this to my mind is a mistake. If the real intention is to see that the orders are carried out I think that must be made absolutely clear and I have tried to do that in my amendment. The clause as it stands in the Bill begins "if any person disobeys or neglects to comply with certain direction or order....." I think that it is not clear from that and that the emphasis actually lies on the fact that the orders given must be executed by whatever means possible. Accordingly I have given an altered shape to this clause, to make the real intention clear. Secondly, towards the close the wording is that if it is thought necessary by the authority concerned that some drastic action should be taken to give effect to a particular order then that authority will be able to adopt any means whatever to carry out the order. I think, however, the authority on whom the carrying out of the order will lie should also consider whether it is not only necessary but also whether a particular course of action will be proper in the circumstances of the case. Therefore I have also added the word "proper" after the word "necessary" in that part of the clause. This is a very modest proposal. I am not particularly satisfied that if this amendment is accepted there will not be any loophole for mischief, but still I think the drafting I have proposed will be much better than the clause as it stands in the Bill. With these words I commend my motion to the acceptance of the House.

The Hon'ble Mr. R. N. REID: Sir, I would oppose this amendment. It seems to me, as the mover has made clear in his speech, that it is a matter purely of wording, and really the clause, as it has been drafted, seems to lay emphasis on the fact that the person concerned on whom an order is made disobeys the order, and the language of that phrase "If any person disobeys or neglects to comply with an order made," etc., is precisely the same to my mind as the phrase used by the mover when he says: "If an order made, direction given or condition prescribed, in accordance with the provisions of this chapter is not complied with," etc. So, the effect is precisely the same, and though I admit that it is possible to argue that the wording given to the section by the mover is perhaps better than the wording of the actual clause as it stands, I do not think that it is really worth-while altering it.

The motion of Maulvi Tamizuddin Khan was then put and lost.

Babu KHETTER MOHAN RAY: Sir, I beg to move that in clause 13, line 5, after the words "or prescribed the conditions" the following be inserted, namely, "after giving reasonable notice to the person concerned."

Sir, in moving this amendment I may say that even a person accused of heinous offence is given an opportunity of defending himself, but in this particular case if a person disobeys or neglects to comply with an order, the District Magistrate is authorised to take any action against the person who disobeys the order. So, I think, Sir, that such a person should be given a reasonable notice. With these few words I commend my amendment to the acceptance of the House.

The Hon'ble Mr. R. N. REID: Sir, I oppose the amendment.

The motion of Babu Khetter Mohan Ray was then put and lost.

Mr. NARENDRA KUMAR BASU: Sir, I beg to move that in clause 13, the following be added, namely, "but shall not in any case inflict more harm than is necessary for such purpose."

Probably, Sir, I shall again be told by the Hon'ble the Home Member that it is not the intention of Government that any officer of Government should, in enforcing his orders, inflict more harm than is necessary for the purpose—but I shall appeal to him to include the words I have proposed in the section as a measure of abundant caution. Even in the Penal Code dealing with the matter of private defence of life and property, it is stated that in no case it is permissible to inflict more harm than is necessary. Similarly, as no act done by any officer of Government under clause 13 is subject to revision by any court,

but, I may say with a great deal of trepidation, may be revisable by the executive superior, but because it is an emergency provision the superior executive officer may feel inclined not to revise any action taken by the subordinate officer, I think the inclusion of the words will not do any harm to Government nor more harm to my friend, Khan Bahadur M. A. Momin. So far as these words are concerned, the language of the clause, as I have just said, is very wide and therefore to guard against the exercise, or rather the misuse, of these powers by subordinate officers, I think these words are necessary.

The Hon'ble Mr. R. N. REID: Sir, I am prepared to accept the amendment.

The motion of Mr. Narendra Kumar Basu was then put and agreed to.

Mr. PRESIDENT: The question is that clause 13, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Adjournment.

The Council was then adjourned till 2-30 p.m., on Tuesday, the 6th September, 1932, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Tuesday, the 6th September, 1932, at 2-30 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 110 nominated and elected members.

Oath or affirmation.

The following member made an oath of his allegiance to the Crown:—

Mr. M. A. F. Hirtzel.

STARRED QUESTIONS

(to which oral answers were given)

Distress in Darjeeling and Jalpaiguri.

*213. **Nawab MUSHARRUF HOSAIN, Khan Bahadur:** (*a*) Is the Hon'ble Member in charge of the Revenue Department aware that acute economic distress is prevailing in the districts of Darjeeling and Jalpaiguri?

(*b*) Is the Hon'ble Member aware that the wife of one Dhir Sing of Kharibari in the district of Darjeeling was without any food for certain days and murdered her three children and committed suicide in the end in the middle of April, 1932?

(*c*) Is the Hon'ble Member also aware that one Dhip Sing, an *adhiar* in Kharibari in the district of Darjeeling, committed suicide by hanging himself from a tree on account of extreme economic distress?

(*d*) Is the Hon'ble Member considering the desirability of making an inquiry into the matter and taking steps for giving adequate relief in the affected areas?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) No. It is not a fact that acute economic distress prevails in these districts.

(*b*) The wife of Dhir Sing of Kharibari in the district of Darjeeling murdered her three children and committed suicide in April last owing to insanity. Her husband had gone to fetch an *ojha* for her medical treatment. At the *post-mortem* examination adequate quantities of partially digested rice were found in the stomachs of all.

(*c*) Though careful inquiry has been made the name Dhip Sing has not been identified. In April last an unidentified hillman was found dead hanging from a tree. The body was decomposed. Rs. 4-4-6 was found in the dead man's pocket.

(*d*) Government do not consider that any further inquiry is necessary at present. In case of serious distress the local officers will report to Government.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member be pleased to state whether insanity was due to previous starvation?

The Hon'ble Sir PROVASH CHUNDER MITTER: From my answer, I do not think so.

Noabad Mahals of Chittagong.

*214. **Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state whether on every one of the *talukdars*, *jotedars* and *ijardars* of *Noabad Mahals* in Chittagong a new rent has been imposed at the last revisional survey?

(*b*) If so, what is the rate of increment on the cadastral survey and on what basis?

(*c*) Has any increment of rent been made based upon the prices of paddy of the *nizdakhali hashila* land?

(*d*) When did the revisional survey begin and come to an end in the thanas of Anwara, Banskhali, Satkania, Chakaria, Ramu, Kutubdia, Cox's Bazar and Patiya?

(*e*) What was the rate of price of paddy at that time?

(*f*) What is the present rate?

(*g*) By how many per cent. has it been reduced?

(*h*) Are the Government desirous of reducing the rent of Noabad Mahals in proportion to the reduced price of paddy?

(i) With reference to the answer to clause (*k*) of the starred question No. 86 of the 29th February, 1932, will the Hon'ble Member be pleased to state whether the Government have come to any definite conclusions?

(*j*) What were the reports of the Collector and the Divisional Commissioner about the matter?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) No. In some cases existing rents were maintained.

(*b*) Rents of *raiyats* were generally enhanced by 4 anuas in the rupee. *Noabad talukdars* and *ijardars* were generally allowed an allowance of 30 per cent. to 50 per cent. on the total assets of the *taluk* or the *ijara*.

(*c*) No.

(*d*) The revisional survey operation commenced in 1923 and came to an end in 1931 in respect of the thanas referred to.

(*e*) Figures for paddy are not available. The price of rice varied from 7 to 12 seers per rupee.

(*f*) In the first half of August, 1932, the price of common rice was 10 seers per rupee at Sadar and 9½ seers per rupee at Cox's Bazar and the wholesale price of common quality paddy was Re. 1-14 per maund at Chittagong.

(*g*) The price of rice is about 30 per cent. below the maximum of the period referred to.

(*h*) No.

(*i*) Yes, Government have decided that it is not necessary to grant any remission at present.

(*j*) Government do not intend to publish the reports.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member be pleased to tell us on what basis the enhancement of four annas in the rupee was made?

The Hon'ble Sir PROVASH CHUNDER MITTER: I suppose under section 104 of the Bengal Tenancy Act, but I am not sure and I would like to have notice.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member be pleased to tell us whether any notice of enhanced rent was given under section 63 of the Bengal Tenancy Act?

The Hon'ble Sir PROVASH CHUNDER MITTER: Under section 104, but here again I am speaking subject to correction. I would like to have notice.

Maulvi SYED MAJID BAKSH: With reference to answer (*c*), will the Hon'ble Member be pleased to tell us if the enhancement was on account of section 130 (*b*), why, owing to the fall in the price of rice, there was no corresponding fall in the rents?

The Hon'ble Sir PROVASH CHUNDER MITTER: As I have stated, there must have been other reasons, but ten years' average was possibly taken.

Khan Bahadur Maulvi AZIZUL HAQUE: As regards the enhancement of rents, will the Hon'ble Member be pleased to tell us when were the rents settled to the *raiyats*?

The Hon'ble Sir PROVASH CHUNDER MITTER: I want notice.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state whether the present time was not the most inopportune for the enhancement of rent by four annas in the rupee?

The Hon'ble Sir PROVASH CHUNDER MITTER: No; the operations started in 1923.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member be pleased to tell us when the price of rice fell to 30 per cent. below the maximum, why was not the enhanced rents limited to the statutory provision of two annas?

The Hon'ble Sir PROVASH CHUNDER MITTER: There is no statutory limitation of two annas in the rupee. If my hon'ble friend will read the Bengal Tenancy Act, he will see that.

Maulvi SYED MAJID BAKSH: Does the Hon'ble Member refer to section 129 of the Bengal Tenancy Act?

The Hon'ble Sir PROVASH CHUNDER MITTER: I am not aware of the particular section of the Bengal Tenancy Act. Two annas in the rupee is by contract and this is not by contract.

Cess assessment in Chittagong.

*215. **Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state what action has been taken in regard to the motion passed by the

Council on the 15th March, 1932, drawing attention to the excessive assessment of cess and the failure to take effective steps for its proper assessment?

(*b*) Is it a fact that the work of reassessment of cess is going on in Chittagong?

(*c*) Will the Hon'ble Member be pleased to state on what basis the assessment of cess is being made in all the thanas of Chittagong?

(*d*) What is the rate of annual value per acre of paddy lands?

(*e*) What was the valuation of those lands at the time of rent assessment of the revisional survey?

(*f*) Are the Government prepared to reduce the assessment of cess in proportion to the fall in the price of paddy after the annual valuation of the paddy land and in those lands on which cess assessment was made in the last three years?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) The instructions under which the Revaluation Officer is working are indicated in the reply given by the Hon'ble Sir B. B. Ghose on the 15th March last.

(*b*) The programme is nearly complete. No new revenue-paying estates are being taken up.

(*c*) The basis of assessment is the rent payable by cultivating *raiyats* and the valuation of *khas* lands.

(*d*) Many paddy lands produce paddy worth over Rs. 30 per acre at present prices and some under-*raiyats* have contracted to pay a rent of 18 maunds of paddy per acre but the cess valuation does not exceed Rs. 12.

(*e*) The *khas* lands of tenure-holders were assessed on the basis of the average *raiyati* rent of the *mauza* enhanced by 4 annas in the rupee, excluding from the calculation the rents of *eksana raiyats* or *raiyats* who pay abnormally high rents. The rates so calculated were reduced to one-fourth or one-eighth of the full rates in case of lands of inferior quality. The rates varied from Re. 1-15 to Rs. 10 per acre.

(*f*) No.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member be pleased to tell us whether the annual valuation of these lands were fixed at the annual rent?

The Hon'ble Sir PROVASH CHUNDER MITTER: I am afraid I do not understand the question.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to tell us what is the basis of assessment when under the Cess Act the annual rents are fixed?

The Hon'ble Sir PROVASH CHUNDER MITTER: When there is a fixed rental that is the annual valuation; whereas in the case of *khas mahal* and other lands the annual valuation is determined under section 4 read with section 24 of the Cess Act.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state whether it is not a definite statutory provision of the Cess Act that where the rent is fixed, valuation is to be determined as the rental?

The Hon'ble Sir PROVASH CHUNDER MITTER: Yes.

Khan Bahadur Maulvi AZIZUL HAQUE: In that view, will the Hon'ble Member be pleased to state whether in most of the cess proceedings the annual rental has been fixed under certain arbitrary rules?

The Hon'ble Sir PROVASH CHUNDER MITTER: No; when there is a fixed rental, that is taken. But as regards *khas* and other lands where there is no fixed rental, it is valued under section 4 read with section 24.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member be pleased to state whether the valuation of these lands were according to the annual rental?

The Hon'ble Sir PROVASH CHUNDER MITTER: Those which were not *khas* were assessed according to the fixed rent and those which were *khas*, according to section 24.

Estates sold for arrears of revenue and cesses in North and East Bengal.

***216. Rai Bahadur SATYENDRA KUMAR DAS:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to lay on the table a statement showing—

(*i*) the number of estates that have been advertised for sale in North and East Bengal since January, 1931; and

(*ii*) the estates which have been actually sold for arrears of revenue and cesses from January, 1931, to June, 1932?

(*b*) What steps, if any, have the Government taken or does it propose to take to help the defaulting proprietors?

(*c*) Are the Government considering the desirability of granting the power of certificate procedure more extensively to the landlords for speedy realisation of rent?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) and (*ii*) A statement is laid on the table. Separate figures for the sales of January and March, 1931, for arrears of revenue are not available.

(*b*) The sale law is being administered with due regard to the difficulties of the proprietors.

(*c*) Certificate procedure is being granted freely in accordance with the terms and conditions laid down in notification No. 10954L.R., dated the 31st August, 1931, published in the *Calcutta Gazette* of the 3rd September, 1931.

Statement referred to in the reply to clause (a) of starred question No. 216, showing the number of estates and shares advertised and sold for arrears of land revenue and cesses in North and East Bengal.

Part of Bengal.	For arrears of land revenue.						For arrears of cesses.
	During 1930-31.		During 1931-32.		During June, 1932.		From January, 1931, to June, 1932.
	Number advertised.	Number sold.	Number advertised.	Number sold.	Number advertised.	Number sold.	Number sold.
North Bengal ..	Not available	76	2,974	89	1,110	60	4
East Bengal ..	Ditto ..	821	5,822	463	2,874	240	25

2-45 p.m.

Rai Bahadur SATYENDRA KUMAR DAS: Will the Hon'ble Member be pleased to state besides the lenient administration of the sale law, do the Government contemplate giving other relief to the loyal *zamindars* when asked in the shape of loan?

The Hon'ble Sir PROVASH CHUNDER MITTER: No scheme of loan policy for *zamindars* is under contemplation.

Mr. S. M. BOSE: What about the *zamindars* who are not loyal?

The Hon'ble Sir PROVASH CHUNDER MITTER: That question does not arise.

Babu SATISH CHANDRA RAY CHOWDHURY: Will the Hon'ble Member be pleased to state whether the figures given in answer to (*a*) (*ii*) are not far above the normal?

The Hon'ble Sir PROVASH CHUNDER MITTER: As regards the actual sale the figures are not above normal, but my impression is that as regards the estates advertised for sale, their number is above normal. Considering that there are few revenue-paying estates, the hon'ble member will see that the actual sales are not above normal.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state if it is not a fact that in most of the districts in Eastern Bengal the collection is very high and the revenue is very low in comparison with Western Bengal?

The Hon'ble Sir PROVASH CHUNDER MITTER: Yes, in many districts in Eastern Bengal, but not in Chittagong. In some districts the collection is high.

Babu SATISH CHANDRA RAY CHOWDHURY: Is it not a fact that the figure is high in comparison with other years due to the fact that the *zamindars* had to borrow money in order to meet their revenue and avoid sale?

The Hon'ble Sir PROVASH CHUNDER MITTER: I believe so, on account of the economic distress and non-realisation of rent.

Babu HEM CHANDRA ROY CHOUDHURI: Will the Hon'ble Member be pleased to state whether Government propose to reduce the cost of maintenance of record-of-rights so that the advantage of certificate procedure may be availed of by more *zamindars*?

The Hon'ble Sir PROVASH CHUNDER MITTER: If the Hon'ble Member had cared to inquire, he would have found that costs have been considerably reduced and that they are not at present high.

Attachment for non-payment of chaukidari tax in Dantan.

***217. Mr. P. BANERJI:** Will the Hon'ble Member in charge of the Police Department be pleased to state—

(*i*) how many heads of cattle have been attached up to date for non-payment of chaukidari taxes in the thana of Dantan for sale;

(*ii*) what would be their value; and

(*iii*) what is the amount of arrears of chaukidari taxes for which they have been attached?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*i*) 60: none were sold after attachment.

(*ii*) About Rs. 150.

(*iii*) Rs. 27-8 from 25 defaulters.

Mr. P. BANERJI: Will the Hon'ble Member be pleased to state what has happened to all the 60 cattle that were attached?

The Hon'ble Mr. R. N. REID: They were recovered by their owners before they were sold.

Mr. P. BANERJI: Will the Hon'ble Member be pleased to state how they have been recovered?

The Hon'ble Mr. R. N. REID: They have been recovered after payment of the dues.

Mr. P. BANERJI: Will the Hon'ble Member be pleased to state whether Rs. 27-8 had been recovered from the 25 defaulters or from a single individual?

The Hon'ble Mr. R. N. REID: From 25 defaulters so far as I know.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state for how many days the attached cattle were kept?

The Hon'ble Mr. R. N. REID: I am afraid I have not got that information.

Khan Bahadur Maulvi AZIZUL HAQUE: Shall I be in order if I ask how much pasture was given to the cattle? (Laughter.)

Mr. P. BANERJI: Will the Hon'ble Member be pleased to state whether there was any firing in connection with the attachment of those cattle?

The Hon'ble Mr. R. N. REID: Yes, there was in order to prevent the attached cattle being forcibly taken away.

Dr. Suresh Chandra Banerji of Comilla Abhay Ashram.

***218. Mr. P. BANERJI:** (*a*) Is the Hon'ble Member in charge of the Police Department aware—

(*i*) that Dr. Suresh Chandra Banerji, President, Abhay Ashram, Comilla, was released unconditionally by the Government of Bengal in February, 1931, for an attack of spinal tuberculosis while in the Alipore Central Jail;

(*ii*) that he is still lying encased in a plaster of Paris jacket from the armpit to below the knees;

(*iii*) that he has been kept under police surveillance in the Abhay Ashram, Comilla;

(*iv*) that he cannot write or receive any correspondence unless it is censored by the police; and

(*v*) that no one is allowed to see him there?

(*b*) Is it a fact that Dr. Suresh Chandra Banerji has been informed by the Superintendent of Police, Comilla, that he can cultivate the lands of the Abhay Ashram but the produce will be at the disposal of the District Magistrate?

(*c*) Is it a fact that the bankers in Comilla have been directed by the Government not to operate on any of the accounts standing in the name of the Abhay Ashram?

(*d*) Will the Hon'ble Member be pleased to state whether the Government have made any arrangement for his expenses?

The Hon'ble Mr. R. N. REID: (*a*) (*i*) He was released before the expiry of his sentence in 1931.

(*ii*) He was in this condition until the end of July, when he left Comilla.

(*iii*) Government are informed that he remained at the Abhay Ashram but that he was not under police surveillance.

(*iv*) Steps were taken to control his correspondence.

(*v*) He was not allowed to interview outsiders without the District Magistrate's permission.

(*b*) Yes.

(*c*) The Union Bank, Comilla, was directed not to make over to the *ashram* the amount standing in the *ashram's* name.

(*d*) He was allowed the proceeds of the cultivation of the *ashram* lands for his maintenance.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state with reference to answer (*c*), why the amount was not made over to the *ashram*?

The Hon'ble Mr. R. N. REID: The point was that the *ashram* was declared an unlawful association under the Ordinance and steps were taken that that amount may not be used thereon.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if the Government have forfeited the amount?

The Hon'ble Mr. R. H. REID: I must ask for notice. I think not.

Mr. P. BANERJI: Will the Hon'ble Member be pleased to state what amount out of the sale-proceeds of cultivation was given to Dr. Suresh Chandra Banerji?

The Hon'ble Mr. R. N. REID: I must ask for notice of that question.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Member be pleased to state why Dr. Banerji was released before the expiry of his sentence in 1931?

The Hon'ble Mr. R. N. REID: I must ask for notice of that questiton.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Member be pleased to state with reference to (*b*), under what provision of the law was such an order passed?

The Hon'ble Mr. R. N. REID: Speaking from memory, I think there is a section in the Ordinance which allows Government to dispose of the property, but I cannot quote it.

Babu SATISH CHANDRA RAY CHOWDHURY: Will the Hon'ble Member be pleased to state if any of those correspondence was found to be highly objectionable?

The Hon'ble Mr. R. N. REID: Yes.

Mr. NARENDRA KUMAR BASU: Will the Hn'ble Member be pleased to state what is the difference between the controlling of a man's correspondence and censoring of it?

The Hon'ble Mr. R. N. REID: Censoring, I think, means, as we all know, that all letters are read and examined before they are delivered to the addressee or to the sender. Controlling would refer to the number of letters allowed to be sent and received and the identity of the correspondents and so on.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state whether in this case the correspondence was censored or controlled, or the correspondence was allowed to reach the addressee?

The Hon'ble Mr. R. N. REID: In some cases I understand it was and in some cases not.

Abduction of Hindu females.

*219. **Rai Bahadur KESHAB CHANDRA BANERJI:** Will the Hon'ble Member in charge of the Police Department be pleased to state—

(*i*) the number of abduction cases in Bengal for the last three years in which Hindu women were victims; and

(*ii*) the number of such cases that ended in conviction?

The Hon'ble Mr. R. N. REID: (*i*) and (*ii*) A statement is laid on the table.

Statement referred to in the reply to starred question No. 219, showing for the last three years the number of abduction cases in Bengal in which Hindu women were victims and the number of such cases that ended in conviction.

District.	Number of cases in which the victims were Hindu women.			Number of cases that ended in conviction.		
	1929.	1930.	1931.	1929.	1930.	1931.
Burdwan	6	7	6	..	1	1
Birbhum	5	9	2	..	..	2
Bankura	..	5	5	..	1	2
Midnapore	20	17	11	2	3	2
Hooghly	31	19	14	2	4	..
Howrah	8	23	14	3	5	1
24-Parganas	46	43	38	10	10	6
Nadia	8	8	7	1	4	4
Murshidabad	..	6	8	..	5	5
Jessore	4	11	9	2	2	4
Khulna	10	9	13	1	3	3
Dacca	4	4	1	3	1	1
Mymensingh	43	28	44	16	8	15
Faridpur	13	9	7	..	1	1
Bakarganj	19	25	15	6	5	2
Rajshahi	1	2	2	..	..	1
Dinajpur	8	9	13	1	5	3
Jalpaiguri	14	12	14	1	3	2
Darjeeling	3	9	4	..	3	2
Rangpur	23	23	28	8	3	2
Pabna	9	5	6	4	2	4
Bogra	3	8	5	..	1	..
Malda	16	6	6	4	3	..
Chittagong	10	8	4	1	..	..
Noakhali	..	..	..	..	..	..
Tippera	4	4	6	1	3	..
Chittagong Hill Tracts	..	..	1	..	..	..
Calcutta	59	53	55	9	8	5

Maulvi ABUL KASEM: Will the Hon'ble Member be pleased to state with reference to the statement supplied to the Council, as there was no conviction, how does he classify these as abduction cases and not as cases of malicious prosecution?

The Hon'ble Mr. R. N. REID: I am not in a position to answer that question.

Rai Bahadur SATYENDRA KUMAR DAS: Will the Hon'ble Member be pleased to state in how many cases of conviction Government took the initiative as prosecutor?

The Hon'ble Mr. R. N. REID: I must ask for notice of that question.

MUNINDRA DEB RAI MAHASAI: Will the Hon'ble Member be pleased to state what special measures Government think it expedient to take for the suppression of this crime which is of daily occurrence nowadays and which is assuming an alarming proportion?

The Hon'ble Mr. R. N. REID: The police officers have been specially asked to take particular care to investigate these cases and to bring the offenders to book.

Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Member be pleased to state whether Government think that convictions in these cases are lower generally than convictions in other sessions and police cases?

The Hon'ble Mr. R. N. REID: I am not in a position to answer this question offhand.

Depressed class constables.

***220. Rai Sahib SARAT CHANDRA BAL:** (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to lay on the table a statement showing separately the reports, if any, received from the European, Muhammadan and Hindu district police officers of the province and the Principal, Sarda Police Training College, regarding the efficiency of the Hindu, Muhammadan and depressed class constables recruited during the years 1929-32 in the ordinary fixed armed reserve and special forces?

(*b*) **Will the Hon'ble Member be pleased to lay on the table another statement showing for the years 1929 to 1932—**

(*i*) the total strength of constables including ordinary, armed and special forces;

(*ii*) the total number of constables who received training at Sarda;

(*iii*) how many of them are Hindus, Muhammadans and of the depressed classes; and

(*iv*) how many of each class stated above underwent disciplinary punishment?

The Hon'ble Mr. R. N. REID: (*a*) The reports are confidential documents. Government regret that they cannot lay them on the table.

(*b*) Two statements are laid on the table.

Statement referred to in the reply to clause (b) (i) of starred question No. 220, showing total strength of constables during the years 1929-32.

	Armed.	Unarmed.	Total.
On the 1st January, 1929 ..	4,306	15,433	19,739
On the 1st January, 1930 ..	4,295	15,430	19,725
On the 1st January, 1931 ..	4,287	15,430	19,717
On the 1st January, 1932 ..	4,288	15,419	19,701

Statement referred to in the reply to clauses (b) (ii) to (iv) of starred question No. 220, showing the number of recruits received for training at Sardah.

Year.	Number of recruits who received training.	Hindu.	Muhammadan.	Depressed class.	Others.	Punishment.							
						Major.				Minor.*			
						Hindu.	Muhammadan.	Depressed class.	Others.	Hindu.	Muhammadan.	Depressed class.	Others.
1929 ..	2,223	1,704	469	15	35	7	2	..	..	503	171	6	5
1930 ..	2,709	1,825	731	116	37	12	5	..	1	539	281	56	6
1931 ..	2,229	1,484	645	37	53	10	4	..	..	490	169	9	14
1932 (up to 8th August, 1932).	1,762	1,246	424	40	52		3	1	1	502	151	6	11

*Minor punishments include warning.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if all the constables are Bengali constables?

The Hon'ble Mr. R. N. REID: The statement includes both Bengali and non-Bengali constables.

Appointment of depressed classes.

***221. Rai Sahib SARAT CHANDRA BAL:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to lay on the table a statement showing, district by district, for the years 1929, 1930, 1931 and 1932—

(*i*) the names of persons appointed as temporary clerks and probationers by the District Magistrates;

(*ii*) how many of such temporary clerks have been taken as probationers;

(*iii*) how many of the probationers have been confirmed; and

(*iv*) how many of them (both probationers and temporary clerks) are Hindus, Muhammadans and of the depressed classes?

(*b*) With reference to Appointment Department memorandum No. 3540-3554-A., dated Calcutta, the 28th April, 1931, will the Hon'ble Member be pleased to lay on the table a copy of the return received from the district authorities and other officers who have appointments under their control showing the number of ministerial posts filled up by the Muhammadans, non-Muhammadans and depressed or backward classes?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) to (*iv*) The information is not readily available and cannot be obtained without a laborious inquiry which Government regret they are not prepared to undertake.

(*b*) A statement is laid on the Library table.

Berhampore Detention Camp.

***222. Mr. SYAMAPROSAD MOOKERJEE:** Will the Hon'ble Member in charge of the Political Department be pleased to state—

(*1*) whether on the 15th August the détenus at the Berhampore Detention Camp were not supplied with their regular meals at mid-day and in the evening;

(*2*) why this was so;

(*3*) whether the same evening a force was brought inside the camp and was directed to charge the détenus, and as a result the latter was mercilessly beaten;

(*4*) what was the reason for this;

(*5*) whether in the course of charging, one officer attempted to fire a détenu with his revolver but was prevented from so doing;

(*6*) whether it is a fact that the détenus have from time to time submitted representations, *inter alia*, in respect of the following:—

(*a*) insufficiency of the number of kitchens, there being only two for 280 persons;

(*b*) insufficiency of water for bath and drink;

(*c*) bad quality of articles of food supplied in relation to the prices charged;

(*d*) apprehensions of theft by contractors and others from the allowances sanctioned for détenus;

(*e*) insanitary condition of drains and lavatories;

(*f*) generally rude treatment of some of the officers in charge, particularly insulting treatment at the time of weekly search;

(*7*) whether several détenus have gone on hunger-strike as a protest against the attitude of the authorities who have not redressed their grievances;

(*8*) the details of the hunger-strike;

(*9*) whether any inquiry has been made into the affairs of the Detention Camp at Berhampore, if not, is the Hon'ble Member considering the desirability of instituting an inquiry without delay?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*1*) On the 15th August they were supplied with their regular meals.

(*2*) Does not arise.

(*3*) and (*4*) Additional Police were brought in because the détenus refused to obey the order for lock-up. The Police were not directed to charge the détenus. No détenu was beaten.

(*5*) No.

(*6*) (*a*), (*b*), (*c*), (*e*) and (*f*) Complaints on these points have from time to time been received. It is not admitted that they are well founded.

(*d*) No such complaints have been received.

(*7*) Yes.

(*8*) 41 détenus declared a hunger-strike. It came to an end on 20th August.

(*9*) Yes.

Mr. SYAMAPROSAD MOOKERJEE: With reference to sub-question (*1*), will the Hon'ble Member be pleased to state if this happened on any other date and not on 15th August?

The Hon'ble Mr. R. N. REID: They were supplied with their regular meal every day.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Member be pleased to say with regard to (*3*) and (*4*), if it is a fact that the main trouble is about the roll call?

The Hon'ble Mr. R. N. REID: I would not say that was a main trouble, but that is one of the various troubles.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Member be pleased to state if it is a fact that such a system is not insisted upon in other camps?

The Hon'ble Mr. R. N. REID: No.

Mr. SYAMAPROSAD MOOKERJEE: Is there such a system in all the detention camps?

The Hon'ble Mr. R. N. REID: Yes, that is my impression.

Mr. NARENDRA KUMAR BASU: With regard to answer (*b*), will the Hon'ble Member be pleased to state whether it is a fact that there are only two kitchens for 280 persons?

The Hon'ble Mr. R. N. REID: It is not a fact now; it was a fact before. One additional kitchen has been constructed subsequently.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state whether there is sufficient water for both bath and drink?

The Hon'ble Mr. R. N. REID: Yes, there is.

Mr. NARENDRA KUMAR BASU: With effect from what date there has been sufficient water for both bath and drink?

The Hon'ble Mr. R. N. REID: My impression is that there was sufficient water from the start.

Mr. NARENDRA KUMAR BASU: With reference to answer (*e*), will the Hon'ble Member be pleased to state if the lavatories are in a sanitary condition?

The Hon'ble Mr. R. N. REID: Yes, they are in sanitary condition.

3 p.m.

Mr. NARENDRA KUMAR BASU: With reference to answer (*f*), is the Hon'ble Member in a position to say that the treatment of some of the officers-in-charge, particularly at the time of weekly search, is not rude?

The Hon'ble Mr. R. N. REID: I have no information.

Mr. S. M. BOSE: With reference to answer (*g*), will the Hon'ble Member be pleased to state if that means that an inquiry has been held or that it has not been made but that he is thinking about it? What does he mean by the "yes"?

The Hon'ble Mr. R. N. REID: Certain allegations were made in respect of this particular trouble and Government made inquiries.

Mr. SHANTI SHEKHARESWAR RAY: May I know who made the inquiry?

The Hon'ble Mr. R. N. REID: Inquiry was made by correspondence.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Special jails and prisoners.

108. Babu JITENDRALAL BANNERJEE: (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state—

(*i*) the number of new special and additional special jails opened in Bengal for the accommodation of ordinary and civil disobedience prisoners;

(*ii*) the total number of such prisoners in the various jails of Bengal at present; and

(*iii*) what was the maximum number reached?

(*b*) In how many cases was punishment inflicted upon such prisoners for breaches of jail discipline?

MEMBER in charge of the POLITICAL (JAILS) DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) (*i*) Four new special and additional special jails have been opened, namely, (1) the Special Jail at Dum Dum, (2) the Additional Special Jail at Dum Dum, (3) the Second Additional Special Jail at Dum Dum, and (4) the Additional Special Jail at Hijli.

(*ii*) and (*iii*) and (*b*). A statement is laid on the table.

Statement referred to in the answer to clauses (a) (i) (ii) and (b) of unstarred question No. 108.

	Total number of prisoners on 23rd July, 1932.	Maximum number reached.	Total number of punishments.
Dum Dum Special Jail ..	785	963	764
Dum Dum Additional Special Jail	657	1,154	80
Dum Dum Second Additional Special Jail	726	915	188
Hijli Additional Special Jail ..	1,987	2,051	1,724

House Surgeon, Dog Ward, Bengal Veterinary College.

109. Babu JITENDRALAL BANNERJEE: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state what are the qualifications and teaching experience of

Babu Gouri Sankar Bannerjee, House Surgeon, Dog Ward, of the Veterinary College hospital?

(*b*) Is it a fact that he has been appointed in supersession of the claims of other senior persons?

MINISTER in charge of AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab K. G. M. Faroqui, Khan Bahadur): (*a*) Babu Gouri Sankar Bannerjee, House Surgeon, Dog Ward, is a graduate of the Bengal Veterinary College. No teaching experience is essential for this appointment.

(*b*) As he was an outsider at the time of his appointment, no question of seniority arises. He was considered to be the most suitable candidate for the post.

Bakshis in Bakarganj civil courts.

110. Maulvi SYED OSMAN HAIDER CHAUDHURI: (*a*) Is the Hon'ble Member in charge of the Judicial Department aware that there are some persons known as Bakshis who do the work of mere clerks but are counted as process-servers in the civil courts of the district of Bakarganj?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state their number and exact nature of the work they do?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) Yes.

(*b*) They are 10 in number and they help the Naib-Nazirs in writing out registers of processes served by the establishment under the Nazir.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member be pleased to state whether these persons are in regular employment of Government and holding substantive posts?

The Hon'ble Mr. R. N. REID: Yes.

Muslim Female Training School.

111. Maulvi MUHAMMAD FAZLULLAH: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether Government contemplate—

(*i*) the abolition of the Additional Assistant Director of Public Instruction's post; and

(*ii*) applying the money saved thereby for the spread of Muslim female education specially of girls in the Muslim Female Training School?

(*b*) Under whose orders has the Muslim Female Training School been shifted to its present Canal Street site?

(*c*) Did Khan Bahadur Abul Hashem Khan Chowdhury recommend the shifting of the school?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) (*i*) The post of Additional Assistant Director of Public Instructoin is a temporary post, the retention of which has been sanctioned up to the end of the present financial year. Its retention beyond that time will depend upon the amount of work in the Director's office.

(*ii*) The question does not arise.

(*b*) The orders of Government.

(*c*) Government regret that they are not prepared to give information on this point.

Maulvi ABUL KASEM: Will the Hon'ble Minister be pleased to state if it is not a fact that the Director of Public Instruction, the Inspector of Schools and certain Muhammadan gentlemen saw the site before it was approved as a suitable place?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes.

Survey and Settlement in Howrah.

112. Rai Sahib SARAT CHANDRA MUKHOPADHAYA: Will the Hon'ble Member in charge of the Revenue Department be pleased to state whether it is a fact that the Government have decided not to start any survey or settlement operations in the district of Howrah in view of the prevailing economic depression in the country?

The Hon'ble Sir PROVASH CHUNDER MITTER: The operations have been postponed mainly on account of financial stringency.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Member be pleased to state whether the Howrah Settlement was stopped on the advice of the Retrenchment Committee?

(No reply.)

Khan Bahadur MUHAMMAD ABDUL MOMIN: Is it not a fact that the stopping of the operation, as has been done in the case of Howrah, is really not economical?

The Hon'ble Sir PROVASH CHUNDER MITTER: In Howrah there were no settlement operations.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Is it not a fact that the same staff does the work in Hooghly and that there would have been no additional cost?

The Hon'ble Sir PROVASH CHUNDER MITTER: Very possibly it would have cost more in the end.

GOVERNMENT BILLS.

The Bengal Suppression of Terrorist Outrages Bill, 1932.

[The discussion on the Bengal Suppression of Terrorist Outrages Bill, 1932, was then resumed.]

Clause 14.

Mr. PRESIDENT: The question is that clause 14 stand part of the Bill.

Mr. P. BANERJI: I beg to move that clause 14 be omitted.

Sir, the clause contemplates punishment of innocent people. Every law in a civilised country of the world contemplates punishment of a guilty person. Even persons whose guilt is not clearly proved is given the benefit of doubt under the law. But here if this clause is passed, it will enable the realisation of fine from an innocent person if he only happens to reside in a turbulent locality. It also contemplates the imposition of fine on a person who has some *zamindari* or land in the locality but who may reside thousand miles away from the locality where this special regulation is in force. Sir, such a measure even in special circumstances is inconceivable. Then, again, this fine will be imposed not according to the gravity of the offence of the person but according to his means. Sir, punishment is determined according to the character of the offence and the law does not take into ccount whether the guilty person is rich or poor; it treats rich and poor alike; but this clause contemplates that the apportionment of fine shall be made according to the District Magistarte's judgment of the respective means and circumstances of such inhabitants. Let us for a moment think how this clause, if passed, will work. The District Magistrate nowadays does not stir out of his bungalow and depends on his subordinates who in their turn depend for the first hand information regarding the condition of a particular area, on the *chaukidar*, *dafadar* or constable who gets information from the president *panchayat*, and

orders. Therefore, Sir, I maintain that this power should not be given to the District Magistrate. It has been said that power may be given to Local Government who will transfer the powers to its officers. I think these officers should be defined, that is, what officers of the Local Government should be given such powers. We know Members of the Cabinet are officers of Government. But will they go and examine for themselves individual cases? I think they will not. Therefore, I say, the result of the passing of this clause will be worse and it is dangerous to allow such a clause to be incorporated in the Bill. Now, it is not at all possible for innocent citizens to suppress terrorism. I say it is simply impossible for the emasculated people to fight against terrorism. They have no firearms even to protect themselves. Those who have firearms have been taken away from them. If firearms are given to the law-abiding people, they will not only be able to protect themselves but they will be able to help Government to stamp out terrorism. Sir, with these words, I commend my motion to the acceptance of the House.

Babu SATISH CHANDRA RAY CHOWDHURY: Sir, I support this amendment. The enormity of the evil lying hidden within this clause is not so apparent as in the case of section 4 already discussed. Nor is it capable at the cursory view of yielding that sinister meaning which section 4 breathes. It is possible, so far as this clause is concerned, to give the benefit of doubt to the Hon'ble Member-in-charge. But that does not by itself prove that it is not capable of doing as great a mischief as that black section, namely, section 4 of this black Bill. My opposition to it is based on the fact that while section 4 is either concentrated honey or poison (honey according to the official view, poison according to us) limited somewhat in its operation, the poison contained in it, if a bit diluted, is more differed in its effect.

While section 4 will be applied to people holding Congress views or expressing extreme views in politics or people protesting strongly against unjust and iniquitous Government measures or perhaps criticising local officials from *chaukidar* upwards, this particular clause will affect and seriously affect even ordinary people in the villages plying their humble trades or occupations who have never meddled in politics and possibly quite innocent of political ideas, for the crime of belonging to a particular locality in the first instance and secondly to Bengal. If I am right in this my conclusion, am I not justified in asking every Indian and European member of this House to pause before casting their votes in favour of it?

Sir, before dealing with the positive aspect of the clause, I will deal with its negative side. I will show, Sir, that it will not effectuate the intention of the Hon'ble Member assuming the same is quite honest.

There seems to be an impression in the official mind that the whole of a particular community is either in league or in sympathy with the terrorists. This impression has in the past created very great mischief and in the future it is calculated to undo all the promise of good that at one time appeared likely to result from England's connection with India—good both to this country and to England, because you cannot ban a whole race or nation with impunity as was once remarked by a great political thinker. This impression is the mother of many of the evils with which we all are faced to-day.

This impression, I think, arises from the fact that in a particular locality an offence is committed—a dacoity, a murder, say, and it is undetected. I have never known a case made out when the inhabitants of a locality really placed any obstacles in the way of detection. It has been asserted now and again that they are apathetic. From this to conclude that the people or a considerable section are in league or sympathy with the offenders is a conclusion without premises or data.

Sir, in many cases dacoities and other offences of a terrorist character are committed by persons not belonging to a particular locality. In such cases you gain nothing by punishing the people of the locality except to prove for them that a legalised terrorism is far worse than unlegalised one.

Then, Sir, even when there are some terrorists in a particular locality and the number can nowhere be very large as compared with the general population—is it possible for the elderly people to know about them or their methods or their ways? These terrorists or rather offenders generally hatch their plots in secret, so secret as to baffle the efforts of even the most expert Intelligence Branch officers. Do you think they would take their guardians or parents into confidence or even give them an idea as to their movements? If they did, would their parents allow them to continue in the path knowing the terrible consequences that may follow eventual detection? If you can believe this, you can believe anything.

What is our actual experience? We find sometimes the children of Government servants occupying high positions are implicated in terrorist crimes. The recent Dacca cases may be cited to illustrate my point. Do you believe these Government servants, some of whom showed commendable zeal in the service, are in league or sympathy with their erring children or even know about their ways, methods or objects? If you do not believe this, even then under what moral or legal code will you punish them? How do you propose then to punish innocent village people, a whole community or section, for the fault of a few? Even if you do that, will that make the erring youths give up their ways simply out of pity towards their parents? They are pitiless people, lost to all sense of morality and scruple who got out to

commit murders or dacoities. They are a class by themselves out of touch and sympathy with the saner elements of society. Do not for heaven's sake create a fruitful field for their activities by creating discontent and grievances all round.

3-15 p.m.

Take again an extreme case. Suppose here is a guardian, A, who knows about the doing of his son, B, a terrorist, and harbours and protects him. He slips out at dead of night, comes early in the morning after commission of a crime and the father takes care to conceal him. How is the neighbour to know what is in the mind of the boy, although the devil knoweth it not? And yet you are to punish them. It may be a Christian doctrine to visit the sins of the father on the son and *vice versa*, but it is neither a Hindu nor a Muhammadan doctrine. Ours is a doctrine of *karma* the man who sows will reap and not his neighbours.

The resort, therefore, to remedies like this will drive into desperation a whole community or people and make the Bill defeat its own object. In the midnight darkness of such despotism no healthy public opinion will grow, and goodwill will be replaced by distrust and suspicion. I would, therefore, ask the Hon'ble Member and pause with this dangerous clause.

You have already provided for assistance being rendered by prominent people in section 10 and for punishment for their remissness; what more do you want? Your greed seems to be insatiable, your lust for arbitrary powers uncontrollable. Are not such powers a double curse? —It curseth him who exercises them, it curseth him on who it is exercised. Demoralisations of officials caused by the possession of unlimited powers have been the cause of the decline and fall of many a fine empire in the past.

Coming to the wording of the clause itself—the inhabitants of a locality—how many of them, two or more, or all, "assist"?—what is the sort of assistance contemplated? Not reporting to the police against all and sundry against whom they have a grudge?

Then who is to apportion the fine—why any police or military officer?

Then the exemption clause. This, apart from other things, will bring something into the pockets of the subordinate officers in their hard days. So far so good.

But why exempt a class? Are these offences being committed by classes? Exemption of individuals we understand, but the exemption of classes we do not. If one neighbour of a terrorist has the opportunity to know the movement of a terrorist, another also has it unless

he lives far apart. It smacks of the odour of communal award, an intelligent anticipation of the latter. The landlord again whether he lives in the locality or not, whether his agents live there or not, must suffer because he is a landlord, though now bereft of all his powers of good or evil as in the former days of glory, poor landlords!

I admit, Sir, this section is complementary to section 4. Section 4 enables the powers that be to seize and take away our movables and immovables—our chattels, real and personal (it should be noted that wives and daughters were at one time included in the latter category and it may be so again as in the recent Chittagong Rape Case by the constable) and now this section picks our pockets, takes away our bread—the money. So between these two sections, none of which can touch the real terrorists, the work of destruction is completely wrought. They are calculated to create a state of desolation unheard of even in the days of the Czarist Russia.

The history of Russian terrorism and anarchism does not contain any such general ban proclaimed by the Czar even when the anarchists were being ruthlessly punished and dealt with.

Of course the Hon'ble Member may argue that section 4 being part of the Bill already, this section should also keep company with the former. I will not seek to answer such an argument, if advanced. I will only express the pious wish

"Would to God some power the giftie gave him, our Hon'ble Home Member, the power to see things as we see them and as the future chronicler will see them!"

MUNINDRA DEB RAI MAHASAI: I beg to support the amendment moved by my friend Mr. P. Banerji. This provision has been reproduced from Ordinance No. XI of 1931 and the people have got some idea of its working. The imposition of collective fine on inhabitants of turbulent areas is, after all, a most drastic provision. In this country the majority of the people are easy-going and peace-loving. They are far from being turbulent in comparison with the people of other countries. It may be asked then why so many areas have been declared turbulent areas? Yes, there is some mystery surrounding it. I am credibly informed that in most cases turbulent areas are created by the lawless actions of the guardians of law and order. Suppose some wicked urchins take out a procession holding aloft a *swaraj* flag and exclaiming at the top of their voice some common slogans or some people go out near the excise shops and with folded hands beseech their countrymen not to use alcoholic drinks which was the cause of their moral degradation, or some may go near some foreign cloth shops and implore people to use indigenous goods. These were enough to cause the custodians of law and order to sally forth with regulation *lathis* and deal blows on the heads of the processionists or picketers. Now, when there

is a *hulla*, the neighbours naturally come out to see what was happening in the locality. Somebody takes it into his head—may be the agent provocateur—to throw brickbats on the police and order to fire is given; some people are wounded and a few may fall down dead. The crowd take to their heels for safety—order is restored. But the locality is declared a turbulent area and punitive police is posted at the cost of the inhabitants. This is the story of the creation of turbulent areas—almost everywhere. The majesty of law is thus vindicated. Sir, the imposition of a collective fine in such circumstances is grossly unfair. The managing directors of the Government, Messrs. Reid & Co., will neither believe us nor the people's version of the case and will take as gospel truth, whatever comes from the lips of their sub-agents in the Police Department. Sir, like the Murhatta *chauth* the Police Department extorts about one-fourth of the revenues of Bengal for their maintenance. The money comes not from outside but from the pockets of the people. The imposition of further taxation in the shape of a collective fine from the inhabitants for the cost of additional police will be nothing short of torture on innocent people. This would only help to exasperate the people in the extreme and drive discontent under ground, which is not at all desirable in the best interests of the country.

Sir, anybody who has got a grain of common sense in him cannot countenance the foolish actions of the terrorists. I should like to call them mentally unbalanced criminals whose heads had got deranged through reading anarchistic and revolutionary literature or through inspirations from people who have deluded them to think that political assassination will bring into being the utopia which mankind is awaiting. But, Sir, for the insane actions of the few misguided fellows, will you be justified in penalising the whole population of a locality? It would be most unwise to adopt such a course. It cannot help in the restoration of peace and order which is essential to the ordered progress of society.

The Hon'ble Mr. R. N. REID: Sir, I oppose this motion, to omit the whole of clause 14. This clause was put in deliberately in the belief that it would be of great value to us in our attempt to meet the terrorist conspiracy and that the provisions of this clause might make it possible for us to run down terrorists who have been in hiding and who possibly have been given shelter and shown sympathy by inhabitants of certain areas. I think I might best illustrate this point by referring to one particular case in which a collective fine was imposed under the existing Ordinance; that was in the village of Dhalghat in the Chittagong district. It is generally known that one absconder in the Chittagong Armoury Raid Case was captured and killed on the 30th of June, while one or two got away. It was then discovered and it became perfectly clear upon the evidence that we had that in that village four or five at least of the leading absconders of the Armoury Case

had been sheltered for about two years. So it was plain that the inhabitants of that village must have sheltered these persons there and they must have known where they were, but that they refrained from giving us any information on the subject. Therefore, on these grounds, Government inflicted a collective fine on the inhabitants of that particular village. I do not, of course, agree with the Rai Mahasai's lurid picture of the use that would be made of this section. I oppose the motion, Sir.

The motion that clause 14 be omitted was then put and a division taken with the following result:—

AYES.

Banerji, Mr. P.	Mookerjee, Mr. Syamaprosad.
Basu, Mr. Narendra Kumar.	Mukhopadhaya, Rai Sahib Sarat Chandra.
Bose, Mr. S. M.	Poddar, Mr. Ananda Mahan.
Chaudhuri, Babu Kisheri Mohan.	Rahman, Maulvi Azizur.
Choudhury, Maulvi Nurai Absar.	Raf Mahasai, Munindra Deb.
Dutt, Rai Bahadur Dr. Haridhan.	Ray, Mr. Shanti Shekhareswar.
Faziullah, Maulvi Muhammad.	Ray Chowdhury, Babu Satish Chandra.
Ghose, Dr. Amulya Ratan.	Rout, Babu Hoseni.
Hoque, Kazi Emdadul.	Roy, Babu Satyendra Nath.
Hossain, Maulvi Muhammad.	Samad, Maulvi Abdus.
Maiti, Mr. R.	Shah, Maulvi Abdul Hamid.
Mittra, Babu Sarat Chandra.	Singh, Srijut Taj Bahadur.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.	Khan, Mr. Razaur Rahman.
Ali, Maulvi Syed Nausher.	Law, Mr. Surendra Nath.
Austin, Mr. J. M.	Maguire, Mr. L. T.
Bal, Babu Lalit Kumar.	McCluskie, Mr. E. T.
Bal, Rai Sahib Sarat Chandra.	Mitter, the Hon'ble Sir Provash Chunder.
Barma, Rai Sahib Panchanan.	Momin, Khan Bahadur Muhammad Abdul.
Basir Uddin, Khan Sahib Maulvi Mohammed.	Mortimer, Mr. H. R.
Blandy, Mr. E. N.	Mullick, Mr. Mukunda Behary.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.	Nag, Reverend B. A.
Chaudhuri, Maulvi Syed Osman Haider.	Nandy, Maharaja Srie Chandra, of Kasimbazar.
Chowdhury, Haji Badi Ahmed.	Nazimuddin, the Hon'ble Mr. Khwaja.
Cohen, Mr. D. J.	Norton, Mr. H. R.
Coppinger, Major-General W. V.	Petre, Mr. S. F.
Cooper, Mr. C. C.	Philpot, Mr. H. C. V.
Das, Rai Bahadur Kamini Kumar.	Rahman, Mr. A. F. M. Abdur.
Eusufji, Maulvi Nur Rahman Khan.	Ray, Babu Amulyadhan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.	Ray, Babu Nagendra Narayan.
Fawcus, Mr. L. R.	Ray Chowdhury, Mr. K. C.
Forrester, Mr. J. Campbell.	Reid, the Hon'ble Mr. R. N.
Gangali, Rai Bahadur Sushi Kumar.	Rees, Mr. J.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.	Ray, Mr. Saileswar Singh.
Gilchrist, Mr. R. N.	Ray, Mr. Sarat Kumar.
Haque, Khan Bahadur Maulvi Azizul.	Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Henderson, Mr. A. G. R.	Sahana, Babu Satya Kinkar.
Hirtzel, Mr. H. A. F.	Sarker, Rai Sahib Rebati Mohan.
Hussain, Maulvi Latafat.	Sen, Mr. S. R.
Kasem, Maulvi Abul.	Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Kerr, Mr. W. J.	Sulaiman, Maulvi Muhammad.
Khan, Maulvi Amin-us-Zaman.	Stapleton, Mr. H. E.
Khan, Khan Bahadur Maulvi Muazzam Ali.	Thompson, Mr. W. H.
Khan, Maulvi Tamizuddin.	Townend, Mr. H. P. V.
	Twynam, Mr. H. J.
	Wilkinson, Mr. H. R.
	Woodhead, the Hon'ble Mr. J. A.

The Ayes being 24 and the Noes 65, the motion was lost.

3-30 p.m.

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg to move that in clause 14 (*1*) for the words "Local Government," wherever they occur, the words "District Magistrate" be substituted.

Sir, the object of my moving this amendment is that the District Magistrate should have the power of making some inquiry and if upon inquiry he is satisfied that any action should be taken, the District Magistrate may impose a collective fine instead of depending on the Local Government doing it by a notification in the *Calcutta Gazette*. My idea is that the District Magistrate will be able on inquiry to ascertain whether there is any reasonable ground for thinking that a person is concerned in a conspiracy or terrorist movement. This clause, however, gives the power to the Local Government who will have to depend in this matter solely upon the police report. With these words, I commend my motion to the acceptance of the House.

The Hon'ble Mr. R. N. REID: Sir, I must oppose this amendment. The mover wants to give the power of imposing a collective fine to the District Magistrate. The Local Government does not wish to delegate this power to the District Magistrate. The acceptance of the amendment will mean a procedure under which the District Magistrate will be empowered to impose a collective fine without the consent of the Local Government. Government, however, do not propose to allow the District Magistrate to have this power uncontrolled by Government. With these words, I oppose the amendment.

The motion of Babu Kishori Mohan Chaudhuri was put and lost.

Mr. ANANDA MOHAN PODDAR: I beg to move that in clause 14 (*1*), line 2, before the word "inhabitants" the words "major portion of the" be inserted.

Sir, this clause is meant for the imposition of collective fine on the inhabitants of turbulent areas. It lays down that if the inhabitants of any area are concerned in committing certain acts, the Government may impose collective taxes on them. Sir, this imposes a very extensive power on the Government.

Sir, in an area all sorts of people reside. The term "inhabitants" has not been defined—it may include all or an insignificant portion of them—in the latter case, the effect of the wrong done by a few is going to tell on the whole. I cannot reconcile myself to the idea how this can be fair or equitable. Some of them may be loyal, some indifferent and others politically minded. You are going to impose the tax on all or most of the inhabitants. If a very small section of the people are engaged in disorderly conduct or in terrorist activities, the tax would be imposed on all. Thus for the guilt of a few

all are going to suffer. This is against the principle of justice, equity and good government. What is the position of people in villages? They are naturally reluctant to entangle themselves in any turbulent action. They are more eager to live in peace and harmony and to carry on their humble existence than to create disturbances. Thus in an area inhabited by, say, 5,000 people, you will not find more than 40 or 50 persons who actually take part in civil disobedience movement, or picketing or any other political demonstration and an insignificant number who may have any sympathy with the terrorist movement. But by this clause we are going to penalise the entire population for no fault of theirs. This will only estrange public feeling, spread more discontent and make the situation worse. Sir, my proposal is that in imposing the collective fine you should consider the condition of the area very carefully. You should not inflict the punishment on those who are your friends—who are loyal and innocent. For these reasons I propose that the collective fine should be imposed in an area the major portion of the inhabitants of which are concerned in the commission of unlawful acts.

3-45 p.m.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that in clause 14 (*1*), lines 5 and 6, for the words "by notification in the *Calcutta Gazette*" the words "after necessary inquiry" be substituted.

I also move that in clause 14 (*1*), line 6, for the words "the inhabitants of" the words "any number of persons in" be substituted.

I also move that in clause 14 (*1*), line 6, for the words "inhabitants of" the words "persons concerned in" be substituted.

By these three amendments I suggest that persons taking part in the terrorist movement may be punished, but no innocent person, for the offence of a person who may be his neighbour and who is concerned in a terrorist action, should be punished. I have already indicated in moving another amendment that Governmtnt should not proceed on suspicion. The principle of the criminal law is that no innocent person should be punished even though the person may be suspected. Even in dealing with circumstantial evidence against an accused the law is when the evidence is properly examined, and the evidence leads to the conclusion that the guilt has been established, he is punished. Otherwise the benefit of the doubt is given to the accused. That principle should under no circumstances be sacrificed. Then, I believe the authorities should not consider the civil disobedience movement as anarchism. It is really not so. Civil disobedience is practically non-co-operation and you should not take it as a part of the terrorist movement. Because a person is practising civil disobedience, that is no reason why you should take him as an anarchist. I think

it is un-English and against the ideas and traditions of British justice. I appeal to the Hon'ble the Home Member for whom I have the greatest respect and I do not doubt his sincerity of purpose, to consider this matter and not to punish innocent people on suspicion. In these days of economic distress what a pity it is to impose a fine and thus punish innocent persons. When an innocent person is punished or harassed, it is well known what effect that produces upon the minds of the sufferers and their sympathisers. This sort of treatment will, I think, encourage terrorism which we all wish should disappear. My idea is that the real grievance should be removed, and if that is done, there will be no need for these laws.

With these few words, I commend my amendments to the acceptance of the House.

Mr. NARENDRA KUMAR BASU: In rising to speak on these amendments, I must confess that I am labouring under considerable difficulty. The clause, as it stands in the Bill, says that "where it appears to the Local Government that the inhabitants of any area are concerned in the commission of scheduled offences or are in any way assisting persons in committing such offences," then a collective fine may be imposed, but the Hon'ble the Home Member, speaking against the motion for the deletion of this clause, says that the reason why this clause finds a place on the statute book, is that by reason of this clause it will be possible to run down criminals in hiding. That, I submit, is not one of the reasons given in the Bill itself, and then the illustration which Mr. Reid gave us, if I may say so, was of still another different nature. Mr. Reid gave an illustration that on the 30th June, certain Chittagong absconders were captured and that on the evidence that Government had, they believed that four or five absconders were sheltered in a particular village. Well, Sir, sheltering absconders is certainly not being concerned in the commission of scheduled offences or assisting persons in committing such persons. Harbouring offenders may be one of the things that should be punished when an offence has been committed, but to say that harbouring offenders is something which proves that a man in that area is concerned in the commission of the offence or is in any way assisting persons in committing an offence, is something that I do not pretend to understand. Then, again, it appears to me that so far as this clause is concerned, if its grammatical meaning is to be taken, then if some only of the inhabitants of a particular area are concerned in the commission of scheduled offences, then you may penalise the whole of the inhabitants of that area barring certain persons or certain classes or sections from the liability. That is to say, you may conceive of a case where half a dozen inhabitants of an area are concerned in the offence and the rest of the inhabitants are innocent, but still it is the

majority that are penalised. This, as Babu Kishori Mohan Chaudhuri has just pointed out, is opposed to all principles of justice and equity, but I confess I am forgetting that the Government specially, if I may use the expression on behalf of this Council, is obsessed with the idea that the more you terrorise people, the easier it will be to crush terrorism. That reminds one of the well-known doctor Sangrado in Gil Blas who said that the only remedy for all sorts of evils was "hot water and letting out blood." Bleed the people as much as you can and put them in hot water and all sorts of terrorism will die out. That seems to be the only justification for a measure of this description, and as the House had decided that clause 14 is not to be deleted, I think the only way to make it approach justice and fairplay is to accept the amendment moved by Babu Kishori Mohan Chaudhuri.

Dr. AMULYA RATAN GHOSE: I beg to support amendment No. 109 moved by Babu Kishori Mohan Chaudhuri. In doing so, I beg to say that members of this Council are as much anxious as any one on the opposite side of the House, to suppress terrorism in Bengal, and I will put a little more stress and say that members on this side of the House are rather more anxious than even Mr. Birkmyre, to see that terrorism is driven from Bengal. But, Sir, the ways and means that are going to be adopted for eradicating this evil from Bengal are not approved by the people who want that terrorism should go. Sir, it has been eloquently said by various members of this House that terrorism cannot be killed by terrorism, and terrorism is likely to spread more if innocent people are also required to pay the penalty for the actions, for the misguided actions of a certain number of misguided youths in Bengal. Sir, it is a very drastic measure that has been contemplated. Persons, inhabitants of an area are going to be penalised for the misdeeds of a number of persons, or a few persons of that area. Those who really want that terrorism should not be encouraged in any way but have not got the means to suppress terrorism, or those who have not the courage to help the Government in suppressing terrorism, should that be the only reason why these innocent people, even if they are sincerely desirous of suppressing terrorism, should be penalised? Sir, no one doubts that Government is eager to suppress terrorism, and so also the policeman is eager to suppress terrorism. But have not these outrages occurred in the presence of the police? Terrorist outrages have occurred and terrorists have made good their escape. Should it be considered, therefore, that the Government or the policemen before whom that outrage has occurred, and the terrorist was not captured or arrested, are in sympathy with such terrorist outrages? This is a most queer sort of idea. Since the terrorist outrages are occurring, we have noticed that even constables are all provided with firearms to protect themselves and to

protect the lives of other peaceful citizens or to resort to means by which they will be successfully able to arrest terrorists. But, Sir, the people whom the Government wants to penalise with fine, what means or what provision are going to be made so that they will be able to defend themselves or to defend the lives of their neighbours, or they will be able successfully to effect the arrest of a terrorist who might be in hiding in their locality, or in that area in which the Government contemplate to impose fine? When no such provision is going to be made by the Government, it will be a sheer injustice to make those people liable to pay fines for the terrorist outrages that are occurring so frequently in this country. In this clause it has been said under sub-clause (2) that "the Local Government may exempt any person or class or section of such inhabitants from liability to pay any portion of such fine."

4 p.m.

Sir, in the Bill clause it has been said under sub-item 2 that the Local Government may exempt any person or class or section of such inhabitants from liability to pay any portion of such fine. In the *Explanation* it is laid down that for the purposes of this section, the "inhabitants" of an area include persons who themselves or by their agents or servants occupy or hold land or other immovable property within such area, and landlords who themselves or by their agents or servants collect rents from holders or occupiers of land in such area, notwithstanding that they do not actually reside therein. From this explanation the intention of Government becomes very clear——

The Hon'ble Mr. R. N. REID: This really does not cover the motion before the House.

Mr. PRESIDENT: The member is dealing with the *Explanation* given under the clause which has been attacked. It defines the word "inhabitant," as used in the particular Bill clause—a word to which he takes exception.

Dr. AMULYA RATAN GHOSE: From this it will appear that Government do not intend to exempt even innocent persons although they may be aware of the innocence of such people. From the *Explanation* it is obvious that the landlords or *zamindars* who may not be in local area or who may not be residing in that area and who have not even their residence or lodging there, will be penalised because they collect rents from that area. This shows the mentality of the Government. This sub-item is rather a silver lining in the cloud. But even that is shrouded by the mists of subsequent explanation in

the clause. Now, Sir, Government in the way in which they are proceeding reminds me of a story: when a lamb was drinking water from a fountain in a hill, tiger which wanted to devour that lamb came up and said: "Why are you contaminating my water?" (A VOICE: We all know that.) Now Government is also proceeding in the same way although the terrorists cannot be caught hold of either for the inefficiency of the police or for the inefficiency of the Intelligence Department who are feeding fat upon the public money, the tenants; the innocent inhabitants of a certain area will have to pay the penalty for that. This fine sort of means is going to be resorted to by Government. The Government, it seems to me, have become too very nervous about the terrorist movement and certainly we have become nervous too. But for that reason we should not lose our heads and enact such an Act which will rather increase terrorism because if innocent people are penalised for no offence of their own, then it is certain that Government will day by day lose many of its loyal supporters and peaceful citizens.

The Hon'ble Mr. R. N. REID: The amendments which are now before the House are 106 to 109. The amendment of Mr. Ananda Mohan Poddar proposes that in line 2 before the word "inhabitants" the words "major portion of the" be inserted. I do not see how it will help the clause very much. If only a minor part, a trivial part of the inhabitants, were concerned and unless a major portion of the inhabitants were concerned in the commission of scheduled offence, there would be no question of imposition of a collective fine upon any section of the people. So the insertion of the words will not be of any substantial effect, because the fine would not be imposed unless a greater portion of the inhabitants of the area were concerned in the commission of the offence.

As regards the first motion of Babu Kishori Mohan Chaudhuri, I think it is consequential on the same member's motion No. 105 which has disappeared.

As regards the second motion of Babu Kishori Mohan Chaudhuri, there again I cannot see how the substitution of the words "any number of persons in" for the words "inhabitants of" can be of really very much value. It seems to me that they mean exactly the same thing.

The third motion of Babu Kishori Mohan Chaudhuri proposes to substitute the words "persons concerned in" for the words "inhabitants of" in line 6 of the clause. There again that goes against the very principle of the clause. So I oppose these motions.

The motions of Babu Kishori Mohan Chaudhuri were then put separately and lost.

Mr. ANANDA MOHAN PODDAR: I beg to move that in clause 14(2), line 2, the words "or class or section of such inhabitants" be omitted.

Sir, in imposing the collective fines, due regard should be paid to equity, justice and higher interests of the public.

Sir, replying to Mr. R. Maiti in this House on 30th August last, the Hon'ble Home Member said that an additional police force has been ordered to be quartered in the Midnapore municipal area and the charge will be collected from members of the Hindu community who are assessed to municipal tax, with exception in favour of those classes or individuals in regard to whom it is *prima facie* reasonable to assume that they have done what they can to counteract the disturbing influences that have been prevalent. And in supplementary questions he admitted that it is quite possible that it may affect some of the Hindus who have no connection with terrorist outrages nor have any sympathy with them but who did not actively help Government in counteracting these influences.

Sir, the Hon'ble Home Member further tried to defend the Government's action on the ground that the Hindu inhabitants of Midnapore were generally connected with the terrorist movement. Sir, this is a very sweeping remark and I think this sort of argument does not bear a moment's examination. It may be that those who are implicated in the recent anarchical crimes in Midnapore happened to be Hindus. But is that a fault of the latter as a community for which they ought to be punished? But there are many members of the Hindu community in Midnapore who sincerely condemn the terrorist activities, who are as loyal as any member of the Government and who are ready to make any sacrifice for the suppression of the terrorist activities. Sir, the Hon'ble Mr. Reid himself admitted that the decision of the Government was likely to make many Hindus suffer who have no connection or sympathy with the terrorists. Sir, this sort of penalisation of the innocent can never be justified by any canons of jurisprudence. Sir, perhaps the Government in making this decision did not for a moment stop to consider the effect it will produce on the public mind. Or perhaps it has no time or inclination to care for public opinion at the present moment. Sir, if the Government really wants the people to actively help the police in rounding up the terrorists, then is it not necessary that they should be made aware of their movements and whereabouts? But it is never done. Even admitting for the sake of argument that because some Hindus failed to actively assist the police, notwithstanding their capacity to do so, their sins can be reasonably visited on others who had no such power or opportunity,

how can the imposition of such collective tax be justified only on their co-religionists and none else? What has the affinity of religion got to do in this matter? This is absolutely unreasonable and unfair. It would not at all be conducive to the best interest of the country nor of the administration to treat one particular community in a manner which perpetually keeps alive in their minds a burning sense of injustice. Sir, it is my firm and sincere belief that the treatment meted out to the Hindus in such cases is only driving them to despair and estranging feelings of many who are true friends of the Government.

The Hon'ble Mr. R. N. REID: I beg to oppose this motion mainly on practical grounds, because it merely gives Government discretion to make exemptions either by way of individuals or by way of classes or by way of section of the inhabitants. I do not see any reason why Government in making such exemptions should be compelled to draw up a long list of possibly hundreds of individuals, instead of adopting the much more convenient method of exempting by classes or sections.

4-15 p.m.

Mr. SYAMAPROSAD MOOKERJEE: Sir, I should like to say a few words in support of this amendment. The reason given by the Hon'ble Member seems to be utterly inadequate. Now that the House has decided not to reject the clause providing for the imposition of collective fines, the question arises as to what safeguard should be embodied in the Bill with a view to determining the principle on which exemption should be granted. The provision of the clause is that the Local Government may exempt not only any person but also a class or section of inhabitants from liability to pay any portion of such fine. We were assured a few minutes ago by the Hon'ble Member that in all these cases orders would be passed after careful scrutiny. If it is decided to penalise certain inhabitants not on the ground that they had committed offences or had any direct sympathy but simply on the ground that they happen to be residing in a particular area, what justification is there for exempting any class or section of persons belonging to that area? That is a point which we cannot understand. If we leave it simply as "any person," that will enable the Local Government to exempt anybody, not necessarily because he belongs to a particular class or community, but because Government is satisfied that he is a person who ought to be exempted from the operation of this clause. That should be the proper standard in such cases. Our apprehension is not based on any theoretical grounds, as the hon'ble mover has already proved by referring to the case of Midnapore. Now, Sir, what has happened there? Hindus as a class have been penalised. That is not the correct attitude to be taken by Government. That is deliberately setting one community against another.

There is another aspect of the question to which I would invite the attention of the Hon'ble Member. One idea of having such a provision is that it will enforce co-operation from the inhabitants of the locality. As the Hon'ble Member has explained, it might even prompt them to give information about certain absconders when the police has proved incompetent to find out their whereabouts. If that is so, why should you not also make it incumbent upon all the communities to combine together to fight terrorism? Why lay down that a particular class or community should be exempted because it happens to be the favoured class or community for the time being?

Mr. NARENDRA KUMAR BASU: Sir, I rise to support the amendment. My difficulty, as in other cases regarding this Bill, is that I do not profess to understand what "class or section of inhabitants" means. It is beautifully vague. The previous speakers have gone on the supposition that it means "communal sections." The word "community" has unfortunately now a very significant meaning so far as Bengal is concerned, and if the word "community" were used, I could have understood that Hindus or Muhammadans or Christians or any other class or religious section were meant. But it is beautifully vague here. I would ask the Hon'ble Member if he would be good enough to try and explain the possible meaning of the term which in my unfortunate position I am unable to understand, as I happen to belong to a section or class of members of the House, who or which (I do not know what the proper relative pronoun ought to be) is not as familiar with the English language as another section of the Council is. A class or section of the inhabitants might mean anything. It might be supposed, talking of Bankura, to be the class of, say, lepers: it might mean the females or it might mean the official or the non-official class. I do not know what it really means and how the Government propose to make out any class or section of the inhabitants who are to be exempted from the liability to pay. The Hon'ble Member in reply to Mr. Poddar's amendment was pleased to say that it was rather difficult and inconvenient for Government to make out a big list of persons who should be exempted. It would be necessary for Government to make out a list of the persons who will be liable to pay. In that case a section or class list will not do. It must be a list of individuals who have got to pay and, therefore, there will have to be a list of persons of the locality and in that case it would not be so inconvenient for Government to choose out the particular inhabitants whom they want to exempt. Sir, I think there is a great deal of vagueness behind this clause and I hope Government will see their way to accept the amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I am afraid that Mr. Mookerjee has altogether misunderstood the clause. He has put forward the suggestion that the exemption may be applied to the

favoured community; I am afraid he has entirely misunderstood the position. This is a Bill, as has been repeatedly said before, on the floor of the House, which deals with a certain type of offence and it is quite possible that a certain class or community may be altogether free or generally free from that. Let us take the European community. It may be possible that there is a large section of Europeans, say, about a few thousands in a particular place. Now, the Europeans generally do not take part in the terrorist movement. Supposing that the necessity arises for enforcing this provision in that particular area, then it is quite possible that Government may exempt the Europeans under this clause. Take, for instance, certain crimes which are attributed to certain communities. Now we generally hear that the Muhammadans are responsible for a certain class of crime,—at least we see it in the newspapers. The Hindu community may be free from that crime. In such cases Government should have power to exempt certain communities. Supposing we want to legislate that everybody must take meat and Government finds that the *Baisnabs* do not take meat: Government should have power to exempt the *Baisnabs* in such case. I quite admit that the whole thing is a bitter pill which will have to be swallowed. But admitting that it is a bitter pill, Government should have power to exempt certain people or class or section of people.

The motion of Mr. Ananda Mohan Poddar was then put and a division taken with the following result:—

AYES.

Banerji, Mr. P.
Basu, Babu Jatindra Nath.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chaudhuri, Babu Kishori Mohan.
Dutt, Rai Bahadur Dr. Haridhan.
Dhose, Dr. Amulya Ratan.
Hoque, Kazi Emdadul.
Maiti, Mr. R.
Mittra, Babu Saral Chandra.
Mookerjee, Mr. Syamaprosad.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Poddar, Mr. Ananda Mohan.
Rai Mahasai, Munindra Deb.
Ray, Babu Khetter Mohan.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Rout, Babu Hosani.
Roy, Babu Satyendra Nath.
Ray Choudhuri, Babu Hem Chandra.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Singh, Srijut Taj Bahadur.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Syed Nausher.
Armstrong, Mr. W. L.
Austin, Mr. J. M.
Baksh, Maulvi Shaik Rahim.
Baksh, Maulvi Syed Majid.
Bal, Babu Lahit Kumar.
Bal, Rai Sahib Sarat Chandra.
Barma, Rai Sahib Panchanan.
Bazir Uddin, Khan Sahib Maulvi Mohammed.
Blandy, Mr. E. N.
Chaudhuri, Khan Bahadur Maulvi Ali-muzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Maulvi Nural Absar.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. G. G.
Das, Rai Bahadur Kamini Kumar.
Eusufji, Maulvi Nur Rahman Khan.

Farooqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Forrester, Mr. J. Campbell.
Ganguli, Rai Bahadur Susil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hirtzel, Mr. H. A. F.
Hossain, Maulvi Muhammad.
Huq, Mr. A. K. Fazl-ul.
Hussain, Maulvi Latafat.
Kasem, Maulvi Abul.
Kerr, Mr. W. J.
Khan, Maulvi Amin-uz-Zaman.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Khan, Mr. Razaur Rahman.
Law, Mr. Surendra Nath.
Lesson, Mr. C. W.
Maguire, Mr. L. T.
MacCluskie, Mr. E. T.
Mitter, the Hon'ble Sir Provash Chunder.
Momin, Khan Bahadur Muhammad Abdul.
Mortimer, Mr. H. R.
Mullick, Mr. Mukunda Behary.
Nag, Reverend S. A.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Norton, Mr. H. R.
Petre, Mr. B. F.
Philpot, Mr. H. C. V.
Rahman, Mr. A. F. M. Abdur.
Ray Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Rees, Mr. J.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sahana, Babu Satya Kinkar.
Sarkar, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Sen, Rai Sahib Akshoy Kumar.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Solaiman, Maulvi Muhammad.
Stapleton, Mr. H. E.
Suhrawardy, Mr. H. S.
Thomas, Mr. M. P.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 23 and the Noes 74, the motion was lost.

Mr. PRESIDENT: Before I adjourn the Council for prayer, I should like to tell the House that when we reassemble, I shall take up the consequential amendments in regard to the Bengal Municipal Bill, of which the Hon'ble Minister has given notice, and also his motion that the said Bill, as settled in Council, be passed.

[At 4-30 p.m. the Council was adjourned for prayer and it reassembled at 4-45 p.m.]

The Bengal Municipal Bill, 1932.

Dr. NARESH CHANDRA SEN GUPTA: May I draw your attention, Sir, to the fact that we had no notice that the Bengal Municipal Bill was coming up for discussion to-day? We are not ready for it, Sir, in the midst of the Terrorist Outrages Bill. So I would request you, Sir, to postpone further discussion of this Bill till to-morrow.

Mr. PRESIDENT: I think the amendments of which the Hon'ble Minister gave notice were circulated to you.

Dr. NARESH CHANDRA SEN GUPTA: No, Sir.

Mr. PRESIDENT: Perhaps you were not in the House at the time.

Mr. SHANTI SHEKHARESWAR RAY: But even if we had received those amendments, we had not the slightest notice that they would be taken up to-day and I would respectfully submit that in the absence of our papers on the subject, it will be practically impossible for us to follow the proceedings. Again, there are certain gentlemen who depend on written speeches; this would practically debar them from taking any part in the proceedings. Besides, Sir, a measure of this importance should have a glorious end. So I do not understand why it should be brought up at the fag end of a tired day.

Mr. PRESIDENT: But these amendments are only consequential amendments and I think you will have no difficulty in dealing with them. They are merely consequential. They propose only essential verbal alterations.

Dr. NARESH CHANDRA SEN GUPTA: What I would beg to submit is that we have not got the Bill with us. So we cannot compare and find out the clauses to which these amendments are consequential amendments.

Mr. PRESIDENT: Did you not get a copy of these amendments?

Dr. NARESH CHANDRA SEN GUPTA: No, Sir. I did not get any nor do I find any here now on my seat.

Khan Bahadur Maulvi AZIZUL HAQUE: These amendments were circulated with question papers this morning.

Mr. PRESIDENT: Perhaps the member was not here then. Well, if there be any real difficulty, the member may now be given copies of the amendments and the Bill. I do not think there is any intention to delay the passage of the Bill. In any case, I must call upon the Hon'ble Minister to move the amendments.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move the following consequential amendments:—

(*1*) that in clause 15, line 3, the words "from persons having the same qualifications as an elected commissioner except in the case of an official" be omitted and after proviso (*2*) to the same clause the following be added, namely:—

> "(*3*) no person, other than an official, shall be appointed a commissioner by the Local Government unless he is qualified for election as a commissioner";

(*2*) that in clause 19 (*5*) for the word "citizen" the words "inhabitant of the municipality" be substituted;

(*3*) that in clause 21 (*2*) (*ir*) for the words "or carrying on any trade or profession being the occupier of a holding" the words "or in occupation of a holding and carrying on any trade or profession" be substituted;

(*4*) that in clause 31 for the words and figures "except in the case of an offence punishable under sections 28 to 30" at the end of sub-clause (*c*) the words, figures and brackets "except in the case of an offence punishable under sections 28 to 30 (both inclusive)" be substituted at the beginning of this sub-clause;

(*5*) that in clause 35 (*c*), in line 5, for the words "by informality" the word "informality" be substituted, and in line 6 after the words "carrying out" the words "any duty under" be inserted;

(*6*) that in clause 42 (*3*), in lines 2 and 3, for the words "and in default of such convention" the words, figure and brackets "and if notices of the meeting are not issued within ten days from the date referred to in sub-section (*2*)" be substituted;

(*7*) that in clause 77A for the words "no business shall be brought forward at a meeting of which such notice has not been given" the words "no business of which such notice has not been given shall be brought forward at a meeting" be substituted;

(*8*) that in clause 81 (*3*), in line 2, before the word "municipalities" the words "commissioners of" be inserted;

(*9*) that in clause 84 (*a*), in lines 2 and 3, for the words "the period of and manner in which notice of meetings shall be given" the words "the period of notice of meetings and the manner in which such notice shall be given" be substituted;

(*10*) that in clause 86A for the words "by gift or otherwise" the words "by gift, purchase or otherwise" be substituted;

(*11*) that in clause 89 (*1*), in line 4, the word "medicines" be omitted;

(*12*) that in clause 227 (*1*) (*1a*), in line 3, the words "without notice" be transposed after the word "may" in line 1;

(*13*) that in the proviso to clause 279 (*2*), in line 3, for the word "sufficient" the word "reasonable" be substituted;

(*14*) that in clause 347, in line 9, after the word "vegetation" the words "undergrowth or jungle" be inserted;

(*15*) that in clause 440, in line 2, the words "which shall appoint its own chairman and secretary" be omitted and the following be added as a new paragraph; namely:—

"The Education Committee shall appoint its own chairman and secretary";

(*16*) that in proviso (*c*) to clause 498, in line 1, for the word "sufficient" the word "reasonable" be substituted;

(*17*) that in clause 516 (*3*), in line 1, after the words "appeals from" the words "decisions or orders under" be inserted; and

(*18*) that in Schedule IV in serial No. 4 in column 2 after the word "broker" the words and figure "not included in serial No. 2" be inserted.

Dr. NARESH CHANDRA SEN GUPTA: Will the Hon'ble Minister kindly point out which amendments are consequential amendments and which simply deal with verbal alterations?

Babu SATISH CHANDRA RAY CHOWDHURY: They are merely verbal alterations and meant to put things in their proper places. It would be quite easy to follow the proceedings in this connection.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I point out, Sir,——

Mr. PRESIDENT: I do not think it is at all necessary for the simple reason that the amendments are in the hands of members. These amendments, I may repeat, are merely consequential amendments, but if any one of them strike any member as affecting any principle of the Bill or suggesting any material alteration, the best thing would be to oppose it.

Dr. NARESH CHANDRA SEN GUPTA: I have just now received a copy of the amendment, Sir, but I have not yet been able to read it. Therefore, as for myself I am not in a position to point out which amendments may be accepted and which not.

Mr. PRESIDENT: Were you in the Chamber when I announced that these amendments would be taken up after the first prayer adjournment?

Dr. NARESH CHANDRA SEN GUPTA: No, Sir.

Mr. PRESIDENT: There lies your difficulty. Those who do not attend the meetings of the Council regularly may at times find it difficult to participate in some of its debates.

Dr. NARESH CHANDRA SEN GUPTA: Should not the Agenda paper of a meeting be circulated one day before?

Mr. PRESIDENT: Every possible chance has been given to the members and it is known to every one that the amendments are merely

consequential. It would not be fair on my part to stop the passing of these amendments unless the House throws them out.

The motions of the Hon'ble Mr. Bijoy Prasad Singh Roy were then put and agreed to.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Mr. President, Sir, I beg to move that the Bengal Municipal Bill, 1932, as settled in Council, be passed.

Perhaps it will not be out of place to re-examine on this occasion the principal provisions of the Bill in the light of the changes effected by this House and their effect generally on the measure. I may mention that the Bill is almost the same to-day as it emerged out of the Select Committee. Because the amendments that have been carried or accepted by Government do not touch the important provisions; the underlying principle of the Bill remains unaffected. The House has accepted without any modification the clauses about extension and nature of franchise, including right of women to offer themselves for election to municipalities and removal of plural voting. Provisions about creation of special constituencies for industries and labour, the system of nomination and its percentage as in the original Bill, and recommended by the Select Committee, have also been approved of by the House. The principal change and I should say a distinct improvement, which has been effected is in clause 17A, *viz.*, introduction of joint electorate with reservation of seats for minorities on population basis. This solved the communal tangle and made consideration of the Bill easier.

Attempts to introduce provisions for imposition of personal tax, and for removal of the clauses empowering municipalities to impose tax on trade and profession were negatived and the House agreed to stick to the original clauses of the Bill. The tax on trades will be an additional and important source of revenue to the municipalities, which will help them to carry out their wider obligations.

The principle of bringing the municipalities directly in contact with the Ministry of Local Self-Government, which inspired the members of the Select Committee, has found full favour with the House. Interference by the local officials has been reduced to a minimum and has been retained only in cases of emergency and where they would be called upon to act on behalf of the Ministry of Local Self-Government. The powers of the Local Government for general and external control, to make rules, to lay down a common standard and procedure about management of municipal affairs, to prescribe a qualification for superior and expert officers and Government's right to audit municipal accounts, and of intervention by way of taking over a particular department of a municipality in case of default, of dissolution, to

enable the ratepayers to pass their verdict on the commissioners and of supersession in case of complete mismanagement of municipal affairs, have also been retained. Thus the House has fully endorsed the policy of Government—the policy of relaxation of control over internal administration of those local bodies with adequate provisions for external control. The principle of autonomy of local bodies are by no means incompatible with the right of general control by the Local Government. This reserve power, to be exercised only in cases of extreme emergency, and to prevent serious mismanagement of municipal administration, are healthy checks, which instead of hindering the development of these useful units of Local Self-Government, will only guide their activities in the proper line and help their expansion in the proper direction. This is a well-tried policy which has proved a great success in Great Britain. Government here means the Ministry of Local Self-Government and I am sure the House is fully conscious of its power over the Minister. If he abuses them, the House will not hesitate to use its constitutional right against him.

Sir, with its democratic constitution, larger sources of revenue, up-to-date hygienic and building rules and all other facilities for the improvement of the amenities of civic life, this Bill which is about to be placed on the Statute Book, if worked in proper spirit by all concerned, will bring, we may reasonably hope, a new era in the development of municipalities in Bengal.

In conclusion, I must thank you, Sir, for the patience, tact and impartiality with which you have guided the discussions and through you the hon'ble members belonging to all sections of the House for the reasonable, friendly and sporting spirit in which the consideration of the measure was carried on and for their valuable co-operation.

Babu SATYENDRA NATH ROY: Sir, I should like to say a few words at this stage. I am sorry that I should have to sound a note of dissent to the speech which has just been delivered by the Hon'ble Minister. Quite apart from the Bill being full of mistakes and gaps, it is much behind the times. It is quite sure that an amending Bill will have to be brought into this Council at the next session. See what has happened with the Motor Vehicles Bill. In this Bill have we got the quintessence of the wisdom, foresight and experience of the Hon'ble Minister in charge of Local Self-Government?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, the Bill is not my Bill, but it is the Bill of the Select Committee.

Babu SATYENDRA NATH ROY: Sir, during the debate we have seen the unedifying spectacle of the Minister not knowing his own mind and playing somersaults when he was calling for a division,

again recalling it and finally after being inspired by a certain group going to the division lobby. In the course of the discussion when I moved for a recommittal of the Bill, the Hon'ble Minister mentioned the name of Sir Surendra Nath Banerjea in connection with the framing of this Bill, but we know very well that he had not much to do with the Bill and that if he had been alive to-day, he would not have touched it and I can only say—"Look at the picture of the Calcutta Municipal Act and look at the picture of the Bengal Municipal Act"—and I am quite confident that the future legislators of this province would denounce it as a backward piece of legislation quite unsuited to the march of events. Sir, what was the idea so early as the year 1883 when the greatest and the most sympathetic of Indian Viceroys, I mean the late Lord Ripon, wanted to entrust the people with the duty of carrying on the work of Local Self-Government and thought that Government had other works to do? Sir, what is the idea so late as the year 1932? A distrust of the people and a tightening of the hold of Government upon these *mufassal* municipalities! We have not been able to do away with the system of nomination after 50 years, but on an average a gain of only one seat by the variation of the proportion of nomination from one-third to one-fourth. We all know how the Minister, not in one instance but in several important matters, wanted to go back upon the improvements made not by him but by some members of the Select Committee. I will just cite a few instances: The first is in regard to the assessment appeals committee and the appointment of assessors. We had to give up one point, *viz.*, by accepting that the assessors are to be appointed from the Government list and Government had to accept that in the appeal committee there would not be a Government nominee. Secondly, the power of control by the Subdivisional Officer has again been restored. Thirdly, in regard to the notice to municipalities, they would not get any notice in case of suppression.

Sir, can the Hon'ble Minister cite anything from this Bill by which it can be said that a transference of power has taken place from Government to the representatives in these municipalities? This measure the Minister had to pilot at the dictation of a Government which is a diarchy now. This Bill ought to have been brought in by a Minister who would be a real popular Minister and after real provincial autonomy had been granted. I must, however, thank the Hon'ble Minister for the industry with which he has laboured and which I do not deny (Hear, hear); but I differ from him in the ideals which he has incorporated in this Bill. With these words, I move that we ought not to pass this Bill.

Babu JATINDRA NATH BASU: Sir, I agree with Mr. Roy in conveying my congratulation to the Hon'ble Minister for successfully piloting this measure through this House. I do not, however, agree

with Mr. Roy that the Bill is a retrograde measure. The Hon'ble Minister has pointed out, and the provisions of the Bill show, that the measure is very largely in advance of the existing legislation regarding municipalities in this province. Sir, like Mr. Roy, many of us have not agreed with some provisions of the Bill. Whether these provisions came from the Hon'ble Minister or came from the Select Committee, there is no reason why we should not recognise that, substantially, the Bill is a very great advance on the previous legislation. I again congratulate the Hon'ble Minister for his having successfully piloted this Bill through this House.

Maulvi ABUL KASEM: Sir, I rise to offer my congratulations to the Hon'ble Minister for Local Self-Government for having successfully piloted this measure—this contentious measure—in not a very uncritical House. I look upon this piece of legislation with a feeling of somewhat vital interest. I know that this Bill was drafted, enunciated and put into form by Sir Surendra Nath Banerjea of revered memory. It has been said that if Sir Surendra Nath had been alive to-day, this measure would have taken a much different shape from what it is at present. I might tell my friends that from my long experience of over 30 years with Sir Sureudra Nath, I can say that after his experience of the Calcutta Municipal Act if he had been alive to-day he would rather have gone back than forward with this measure regarding Bengal municipalities. It has been said further that there has been no transference of power from the Government to the local bodies. Sir, my friend, Mr. Roy, himself acknowledges that there has been an increase in the number of elected members and a proportionate decrease in the number of nominated members. My friend's contention is that the time has come, because this is the year of Grace 1932, when the whole municipality should have been created and constituted on an elective basis; but, Sir, he forgets that in the municipal administration some expert knowledge has to be recruited or put in. Where would you get the Civil Surgeon and the engineer to look after technical matters; but these details have been discussed in this House and outside this House. The only other objection, I find, Sir, is the fact that this measure should not have been passed in this House but should have been left to the successors—I mean when this House was composed entirely of elected members. I think it was very right and proper on the part of the Hon'ble Minister for Local Self-Government not to leave the legacy of an obsolete Municipal Act to the future Government but to give a fresh and new working Municipal Act when they take charge of the administration.

5-15 p.m.

Sir, we have been told that this House and this Government is only a diarchy. It is no doubt a diarchy, but so far as local self-government

measures are concerned, this House is the complete master because of the non-interference of the reserved section of this House. I offer my congratulations to the Hon'ble Minister for his tact, his sympathy, his conciliatory attitude and his friendliness in all matters. It cannot be denied that it was due entirely to his personality and to his personal efforts that this Bill which at one time it was apprehended would be wrecked on the rock of communal divergence and communal distrust, has been safely brought to the shore. Sir, I trust and hope that if the constitution of the various municipalities are worked in the spirit in which this Bill has been framed, and this Bill has been carried through in this Council, I hope better days will come for Bengal, and if mutual trust and mutual forbearance is given effect to, and is brought to bear on the working of our civic life in Bengal municipalities, the time will come when our communal differences will cease to exist. I may prophesy that if the same tact and the same conciliatory attitude, and the same sympathy and the same spirit of give and take is shown by all sections of the community, as was shown by my friend the Hon'ble Minister for Local Self-Government on the one hand and the leaders of the Hindu and Muhammadan communities on the other, I think all these questions of nationalism and nation-building will be solved. In offering my congratulations to Bijoy Prasad Singh Roy, I take a more parochial measure because he and I come from the same sleepy hollow and it is a matter in which we think we may take a legitimate pride because this structure, of which the foundation was laid by Sir Surendra Nath Banerjea, has been brought in completion and has been given a finishing touch by one of his youngest but none the less earnest followers.

Mr. S. M. BOSE: I am indeed very sorry that Mr. Satyendra Nath Roy has made a speech which I can only characterise as unpleasant. After the fight is over, Sir, it is usual for men to shake hands, and I am, therefore, very sorry that Mr. Roy has thought fit to rake up the past. Rather I would be proud of this great achievement just finished. It has been, Sir, a remarkable epoch in the history of our Legislative Council. After 50 years the Act of 1884 which was framed at a time when local self-government was in its infancy, has now been repealed and the new Act of 1932 has been brought up to date. Now that the din and heat of the fight are over, everybody, even Dr. Amulya Ratan Ghose and Mr. Satyendra Nath Roy, will admit that this is a very important improvement on the old Bill, and I am sure it will be admitted by everybody that this Act embodies up-to-date ideas regarding health and sanitation, and it has given considerable power to local bodies. Sir, no doubt this Bill has attracted very great public attention and a great many amendments have been suggested, but having regard to the extensive nature of the Bill, I do not really think that the number of amendments has been too large. A great many members

have taken very great pains over these amendments and I am sure the House is greatly indebted to them for all that they have done.

Then I need only refer to one other aspect, section 17A. That, to my mind, is a very important sign of the times; it shows that in spite of all attempts to keep Hindus and Muhammadans apart, both these communities realise the need to unite and form one people. I, Sir, would lay great stress upon this achievement which I regard as a very good augury for the future constitution. It is, I think, to some extent immaterial as to exactly how many seats Hindus will get and how many seats Muhammadans will get, but what is material is that there should be a growing spirit of nationalism amongst us. Lastly, I join with my friends in conveying our hearty thanks to the Hon'ble Minister. We all know the tremendous strain that this Bill has entailed on him, yet he has been always smiling, and he has been all things to all men. (Laughter.) I am sure he is to a large extent responsible for section 17A. And, lastly, if I may say so, Sir, we are also greatly indebted to you because we feel that we have been at times sorely trying and you have been very kind and patient, and I must, therefore, express our gratitude to you, Sir.

Babu SATISH CHANDRA RAY CHOWDHURY: We feel proud of having taken a part in an achievement like this. I dare say that there is no one and no section which does not call it an achievement on the part of the Hon'ble Minister, because the question of the amendment of the Bengal Municipal Act was hanging fire too long. It was thought out two decades ago, though it was not until the time of Sir Surendra Nath Banerjea as Minister that the matter was ever seriously taken up. But owing to various reasons, it could not be given effect to until the present Minister took courage in both hands and wanted to give effect to the intentions of Sir Surendra Nath Banerjea who, it may be said, was the one person in Bengal who tackled the problem of our municipal self-government successfully more than anybody else. We have another reason for gratification, and that is that this Bill is practically the first drafting of Sir Surendra Nath Banerjea which will keep alive his memory which is dear to us all, and this has been made possible by the stupendous labour of the present Minister. A careful perusal of the Bill will show that it seeks to cover all the possible activities of the citizens and of local self-governing bodies including the important subject of public health. Unlike other countries we have no Public Health Act in this country, and that want was felt very much by all. I am glad to say that this Municipal Act really goes a great way to remove some of the defects in this respect also which were very keenly felt. Then, Sir, it cannot be said that this measure has been hastily conceived and passed through. Apart from the fact that Sir Surendra Nath Banerjea really drafted the main provisions, we

know that the Hon'ble Minister had several conferences of the chairmen and the vice-chairmen of the various municipalities before the Bill was finally drafted, and their advice was adopted by the Hon'ble Minister. Then there is another argument advanced by the opponents of the measure that ought to be looked into. That argument is that it ought to have been left to our successors under the reforms. Well, we do not know when the reforms are coming or how we are the losers, because we have not waited for that time. I hold on the contrary that by the operation of this Act in the meantime some of its defects may be found out, and then it will be for the coming legislature to remove those defects. No obstacle is put in the way of their removing any glaring defects that may be thus found out. The main labour has been given, and the main part of the work has been performed and performed to the satisfaction of lovers of self-governing institutions. As a matter of fact, some defects are bound to be present in every human effort and in every human legislation. Some defects have been pointed out by my learned friend who struck a note of dissent, *e.g.*, there are members of this House who think that the entire body of municipal commissioners should be elected, but it should be remembered there are other members who feel that we have not yet reached a stage in all parts of the country, at least not in all municipalities where this would be an unmixed blessing. In any way, even in this respect this measure is an advance on the present Act and there is no obstacle placed in the way of further advance in the years that are coming by way of the necessary amendments to have the whole body of the municipal commissioners elected should that be the majority opinion in future. The most outstanding feature of the whole effort is section 17A by means of which a compromise has been arrived at between the two communities and which augurs so well for the future peaceful advance of the nation towards the goal of self-government, and in achieving that high purpose, the Hon'ble Minister was certainly the instrument in the Divine hand. We are grateful to him for his successful negotiation towards this end of which all of us are really and justly proud. In my opinion and in the opinion of the majority of the members of this Council, we certainly consider that this is a piece of legislation which is really much in advance of the old Act. The principle underlying the Bill was never questioned by the majority of the members. The most glaring defects have been removed by the amendments proposed and accepted by the House and the Hon'ble Minister. Further, I consider that the members of the Select Committee also deserve our congratulation, for meeting popular wishes by effecting some drastice changes in the original provisions.....(Cries of hear, hear and applause).

Lastly, I must congratulate the Hon'ble President who has guided our deliberations with tact, wisdom and considerations during the long and weary weeks and has shown exemplary patience in accommodating

the members to place the numerous amendments for discussion and in dealing with them.

Mr. W. H. THOMPSON: May I add the congratulations of myself and of the European group to the Hon'ble Minister for his conduct of this Bill? I shall add a fresh note to this debate, and I am sure that when I do so, I shall not be misunderstood by the Hon'ble Minister. The fresh note which I shall add is brevity, and I will say no more.

5-30 p.m.

Mr. NARENDRA KUMAR BASU: I beg as briefly and shortly as possible to thank the Hon'ble Minister for the Bill which has been placed at the last stage. My friend Babu Satyendra Nath Roy is not satisfied with the Bill because under this Bill the municipal bodies have not been made perfectly autonomous. I think that is the general complaint about all measures in this country. We have not yet been able to attain perfect autonomy in any department either of politics or of any other walk in life. But if my friend Babu Satyendra Nath Roy would only look at this measure which has freed municipal budgets from governmental control and at the considerable powers that have been reserved to the municipalities as such, he would certainly agree in thinking that the Bill is a considerable improvement on the Act which is now on the Statute Book. The name of Sir Surendra Nath Banerjea has been freely bandied about in this Council, but speaking for myself I do not know what Sir Surendra Nath Banerjea would have said about this Bill. I had often heard him say that in political matters one can never be consistent if he has got to march with the times. In fact, he said that consistency was the virtue of fools. I do not know that Sir Surendra Nath Banerjea would have said in 1932 about this measure that we are going to place on the Statute Book that it was a retrograde measure. The one thing that has been touched upon by speakers of the various sections of the House is section 17A. To my mind the passing of that section proves this that if the Hindus and Muhammadans are allowed to meet face to face and are allowed to compose their differences without the intervention of a third party, there is no difficulty in composing their differences. That is a matter which has been demonstrated to us all and I think it is a great gain. If that spirit continues to animate the Hindus and Muhammadans in spite of the communal award, I think there is great hope for the future of the province.

Lastly, I must say that in addition to the thanks which have been so eloquently given to the Hon'ble Minister and so deservedly too, I must also thank the President of the House for his part in conducting the consideration of the Bill—why, the merely physical part of the task

that he had to go through was onerous enough. I thank the other officials and also the able and courteous Secretary of the Local Self-Government Department, Mr. Townend, for the very considerate manner in which he helped the Minister in piloting the Bill.

Khan Bahadur Maulvi AZIZUL HAQUE: I must join the chorus of congratulations which have been offered to the Hon'ble Minister, to the Secretary and lastly to you, Sir. In doing so I also must not forget that you immediately after the separation of the Legislative Council and the Legislative Department were confronted in your office as the President with the stupendous task of piloting a Bill with 2,000 amendments and I congratulate you and your office for the very successful manner in which all the amendments and the various short-notice amendments have been printed and for the facilities which we have been given in the way of moving them. I think that shows that it will be possible to stand the strain of any heavy legislation even though the Legislative Council is separated from the Legislative Department.

I will not take much time of the House because Mr. Thompson sounded a note of warning. We on this side of the House think that this legislation, whatever it might be, is a distinct departure from the present Act, inasmuch as the municipalities have greater control over finances and the elected members have greater voice and also because of the fact that Government will be able in case of mismanagement of a municipality to exercise their control. I think that the municipal finance for the last 50 years had been in such a condition that it required a Bill of this nature in order to be able to bring about a certain change in the financial condition of the municipalities. It has been a distinct improvement in many other ways, but as the word "brevity" is put into my ears, I will not say anything more but only congratulate you and the Minister.

Mr. J. CAMPBELL FORRESTER: I move that the question be now put.

The motion that the question be now put was put and agreed to.

Mr. PRESIDENT: The question is that the Bengal Municipal Bill, 1932, as settled in Council, be passed.

The motion was put and agreed to.

The Bengal Suppression of Terrorist Outrages Bill, 1932.

[The discussion on the Bengal Suppression of Terrorist Outrages Bill, 1932, was then resumed.]

Babu SATYA KINKAR SAHANA: I beg to move that in clause 14 (*2*), line 2, after the word "inhabitants" the words "who had no concern in the commission of scheduled offences" be inserted.

Sir, I move this amendment not in an "against Government" spirit, but in the spirit of a friend and co-operator. I do not grudge the necessary powers to the Government to fight out the menace of terrorism, but I would like to say that the powers should not be used as to increase the menace and consequent trouble in the country.

Sir, this Bill, when passed into a law, will be put into operation not by the Hon'ble Members with their varied experience nor by their cool-headed Secretaries, but it will be functioned by the executive and police officers in the *mufassal*. It is quite possible, Sir, that some of them, for various reasons, may now and then sacrifice the spirit of the law to the wording which is sometimes as elastic as a piece of rubber, and thereby baffle the object of the Bill. Sir, my amendment is intended to guard against such eventualities.

Sir, administrations stand on the basis of justice and equity; as long as the basis is firm, the structure stands raising its head high on heaven; but when the basis shakes there is every possibility of the coming down of the building. Sir, my amendment is intended for strengthening the basis which unfortunately has greatly suffered of late years, from hard knocks from either sides. Due to unfortunate events the firm faith in British justice has been shaken. A dark cloud of distrust has been hovering over our unfortunate province. It is much to be regretted that the Government do not trust the people nor the people the Government. This mutual distrust is the cause of all our troubles. The Government should, I think, try to remove the distrust and not do anything to increase it.

Sir, there is already a buzzing in the country over this Bill that policy has displaced the sense of justice in the British statesmen; it will not be good policy to allow the buzzing to grow into howling discontent. Sir, if the liability of payment of fine of any person or class or section of inhabitants be not guarded but left to the discretion of officers, there is every apprehension of the creeping in of invidious distinctions based on the likings and dislikings of individual officers. Sir, any semblance of such distinction, I am afraid, will help the agitators to spread more discontent in the country. So I venture, Sir, to propose the insertion of the words "who had no concern in the commission of scheduled offences" with the object of helping the officers with a common standard for the exercise of discretion and of avoiding future troubles.

With these few words, I commend my motion to the acceptance of the House.

The Hon'ble Mr. R. N. REID: I am sorry to have to oppose this amendment. I feel considerable difficulty in understanding how it will help the police or the officers who administer it. I am totally unable to see how it is going to help because the section, as it

stands, gives Government discretion to exempt any person or class or section of the inhabitants, but this amendment would to some extent limit that discretion, limit it in a way which is not very helpful to my mind. The whole sub-section is intended to cover the cases of men who had no concern in the commission of offences. Therefore, I think, I must oppose the amendment.

The motion of Babu Satya Kinkar Sahana was then put and lost.

MUNINDRA DEB RAI MAHASAI: I beg to move that after clause 14 (2), the following be inserted, namely:—

"Provided that such exemption shall not be based upon communal or racial considerations."

The Hon'ble Mr. R. N. REID: I am prepared to accept this amendment. When exemption is made in favour of any class or section, it is not based on the fact that that class or section of the inhabitants belong to a particular community, but because there is reason to believe that that class or section are not concerned with the offence and associations which this clause is designed to deal with.

The motion of Munindra Deb Rai Mahasai was put and agreed to.

Rai Bahadur KAMINI KUMAR DAS: I beg to move that after clause 14 (2), the following be inserted, namely:—

"Provided also that no person shall be exempted simply because he is a Government servant or a Government title-holder."

I move this amendment on account of my experience in connection with the realisation of punitive tax from the 52 villages of Chittagong. The villagers—I know many of them—had to pay by pledging the ornaments of their wives and children—the *zamindars* of Chittagong—good many with an income of Rs. 25 per annum—have been reduced to the last stage of penury—the pleaders, *kavirajes* and physicians are all suffering from 75 per cent. cut and I know how difficult it was for them to pay the tax, but the Government servants were not touched though they are sure of getting only 10 per cent. less than their original monthly income.

Besides, what reason can there be for exempting these classes—has there been any proof that these classes have shown any active loyalty to suppress terrorism—it is not time for passive loyalty—and this passive loyalty also out of motive and not sincere and there is nothing to show that it is so. The Government servants have surely more effective voice in the interior upon the villagers than many people of the other classes aforesaid. Is there any proof that these Government servants have preached to the villagers in all

seasons how misguided these raiders have been, and they should all try to find them out? If the Hon'ble Member has any such information, then he may not accept my motion; otherwise I hope he will not object to add this provision because it will be a guide to the officers realising the fine.

5-45 p.m.

Now, as to the title-holder, it is presumed that they are comparatively solvent amongst the poor villagers. They have time and leisure to work in their respective villages to suppress terrorism and unless there be proof that these so-called big men can give positive proof of their active loyalty—onus being on them—they should also suffer with their fellow countrymen for faults of these terrorists.

The Hon'ble Mr. R. N. REID: Sir, I am sorry to have to oppose the Rai Bahadur in regard to this amendment. I do not think that it is necessary or that it will affect the Bill very much. I think the principle underlying the clause applies equally to all, whether they are Government servants or title-holders. They will not be exempted simply because they are Government servants or title-holders, but because, as I pointed out in connection with another amendment, they are not concerned in any way with the activities which it is our desire to suppress.

The motion of Rai Bahadur Kamini Kumar Das was, by leave of the Council, withdrawn.

MUNINDRA DEB RAI MAHASAI: I beg to move that in clause 14 (*3*), line 6, after the word "means" the words "and the degree of concern" be inserted.

Sir, the section runs thus—

"(*3*) The District Magistrate, after such inquiry as he may deem necessary, shall apportion such fine among the inhabitants who are liable collectively to pay it, and such apportionment shall be made according to the District Magistrate's judgment of the respective means of such inhabitants."

To apportion the fine according to "means" would be a matter of grave injustice to the people who have got sufficient means to pay. This is very bad in principle. The fine should be imposed not on consideration of affluent circumstances, but should depend on the degree of concern.

Babu HEM CHANDRA ROY CHOUDHURI: I beg to move that in clause 14 (*3*), line 6, after the word "means" the words "and degree of implication with crime" be inserted.

Sir, my amendment is based on the broad principle that punishment should be in consonance with the gravity of the crime committed.

If the only thing that is to be considered in apportioning the collective fine be the respective means of the inhabitants, I doubt whether the Bill will be effective against the terrorists. But I am sure it will hurt the innocent most. Sir, terrorists may not always be expected to be men of means and hence the major portion of the collective fine may have to be borne by innocent but rich men who may not have any time, opportunity or capacity to help the Goverment in detecting the terrorist.

I would, therefore, propose that not only the respective means but degree of implication with the crime should guide the consideration of the Magistrate in apportioning the fine.

The Hon'ble Mr. R. N. REID: Sir, I beg to oppose these motions simply on the ground that if the District Magistrate is compelled to go into the question of the respective degree of complicity of every individual who is to pay his portion of the collective fine, the thing simply becomes impracticable, and on this ground I oppose the motions.

The motions of Munindra Deb Rai Mahasai and Babu Hem Chandra Roy Choudhuri were then put separately and lost.

Mr. SARAT KUMAR ROY: With your permission, Sir, I should like to change my amendment.

I move that in clause 14 (4), lines 2 and 3, for the words "or as arrears of land revenue" the words and figures "recoverable under the Public Demands Recovery Act, 1913," be substituted.

The Hon'ble Mr. R. N. REID: Sir, I am prepared to accept this.

The motion of Mr. Sarat Kumar Roy was then put and agreed to.

Babu KHETTER MOHAN RAY: Sir, I beg to move that the explanation to clause 14 be omitted.

The Hon'ble Mr. R. N. REID: Sir, in view of the past discussion I am prepared to accept this.

The motion of Babu Khetter Mohan Ray was put and agreed to.

Mr. PRESIDENT: The question is that clause 14, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 15.

Mr. PRESIDENT: The question is that clause 15 stand part of the Bill.

The motion was put and agreed to.

Clause 16.

Mr. PRESIDENT: The question is that clause 16 stand part of the Bill.

Mr. P. BANERJI: I beg to move that clause 16 (*2*) be omitted.

Sir, under this clause the Local Government may invest the District Magistrate with the powers of the Local Government under section 4 and sub-clause (*2*) says: "the Local Government may invest any Subdivisional Magistrate, or any police officer not below the rank of Deputy Superintendent or any military officer not below the rank of Captain, with any of the powers of a District Magistrate under this chapter."

As I pointed out, in connection with the previous clause, we can at least trust the Local Government to a certain extent and we can at the most agree to power being given to the District Magistrate, but here the Local Government wants to give power to the Subdivisional Magistrate or to a police officer or even to a Captain; so I submit, Sir, that power should not be given to any other person except the District Magistrate.

The Hon'ble Mr. R. N. REID: Sir, I beg to oppose this motion. The District Magistrate cannot always be expected to be present on the spot and, therefore, it is necessary to delegate powers to other responsible officers, and the officers whom the Local Government may delegate powers under this sub-clause are officers of fairly high rank, namely, Subdivisional Magistrate, police officer not below the rank of a Deputy Superintendent and military officer not below the rank of a Captain. It is simply not possible to accept the amendment as it stands as it seeks to limit the power of delegation of the Local Government.

The motion of Mr. P. Banerji was then put and lost.

Mr. S. M. BOSE: With your permission, Sir, I should like to make a change in my amendment. It will read thus—

that to clause 16 (*2*) the words, figures and brackets "except powers under sub-section (*3*) of section 14" be added.

The Hon'ble Mr. R. N. REID: Sir, I am prepared to accept this amendment. It leaves out the reference to section 10 and retains that to section 14(3).

The motion of Mr. S. M. Bose was put and agreed to.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 16 (3), lines 8 and 9, the words "or with which the District Magistrate has been invested under sub-section (1)" be omitted.

Sir, as the Council will find, the powers with which the District Magistrate may under sub-section (1) be invested are powers of the Local Government under section 4, namely, powers to take possession of immovable property. I submit, Sir, that even in a specified area these powers of the District Magistrate ought not to be re-delegated, especially as the delegation is proposed to be made to "any civil or military officer." It ought to be in the hands of the District Magistrate himself and it ought not to be in the hands of any civil or military officer, without distinction of rank or position.

The Hon'ble Mr. R. N. REID: Sir, I beg to oppose the motion again on the practical ground that it is not always possible or practical for the District Magistrate to issue such orders and I think delegation on this ground is necessary. I should add that up to now under the existing practice whenever any immovable property is taken possession of, the matter is reported to Government and there are standing orders to this effect. I do not know whether this will be taken as an assurance, but there it is.

The motion of Mr. Narendra Kumar Basu was then put and lost.

Mr. PRESIDENT: The question is that clause 16, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

6 p.m.

Clause 17.

Mr. PRESIDENT: The question is that clause 17 stand part of the Bill.

Maulvi TAMIZUDDIN KHAN: I beg to move that clause 17 (2) be omitted.

Sir, in this clause power has been given to the Local Government to frame rules and it has also been provided that Government will be able to prescribe some punishment for disobedience of the rules. Sir, this seems to be legislation through the back door which I cannot approve of. So, I think the clause should not be there and should be omitted.

The Hon'ble Mr. R. N. REID: Sir, I beg to oppose this motion. It is essential that Government should keep to themselves the power of framing rules to carry out the purposes of this chapter and to prevent attacks on the persons or property of His Majesty's subjects, etc. And what is the point in making rules if their violation is not accompanied by any punishment? So I oppose the motion, Sir.

The motion of Maulvi Tamizuddin Khan was then put and lost.

Mr. PRESIDENT: The question is that clause 17 stand part of the Bill.

The motion was put and agreed to.

Clause 18.

Mr. PRESIDENT: The question is that clause 18 stand part of the Bill.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I move that clause 18 be omitted. Sir, I am unable to understand why the words "except as provided in this chapter" are there. I have been unable to find any provision in the Chapter I that any proceeding or order can be called into question by any court. There is no provision in the chapter which sanctions the institution of civil or criminal proceedings for anything done under this chapter. So evidently the proviso is a mere eyewash and the clause virtually grants immunity to Government servants. Any person who is aggrieved in any way against the operation of this measure can get no redress. There will be no right of appeal from any sentence under clause 15,—a sentence of imprisonment which may extend to six months and also a fine. Then the soundness of an order under the various clauses of the Bill cannot be questioned and the compensation that a Collector may choose to give under clause 8A will be a final order. Sir, I am not a lawyer, but as a layman I am inclined to think that a provincial Legislative Council cannot in this way bar the jurisdiction of even the High Court. This is a matter of law and in due course it will be tested whether we have exceeded our powers in passing certain clauses in this Bill. But in this clause we are asked not only to restrict the right of appeal, but in a way an attempt is made to absolve the officers of the Government from the consequences of their actions done in good faith or otherwise. They will have the license to do whatever they like under the authority of this Bill and no punishment is to be meted out to them if they are in the wrong—if they oppress the people, if they wantonly interfere with the cherished rights of the people. I know the executive Government on the reserved side is

not responsible to this Council. Perhaps in their irresponsibility they have ventured to insert this clause in the measure.

But I do not know if the Hon'ble Member in placing this clause before us, has forgotten all about the Government of India Act. May I ask him how he can contemplate such absolute immunity in the face of the provision of sections 124, 127, 128 of the Government of India Act, 1919? In section 124 of the Government of India Act it is stated that if any person holding office under the Crown in India oppresses any British subject within his jurisdiction or in the exercise of his authority he shall be guilty of a misdemeanour. An offender under this section can be tried by His Majesty's High Court of Justice. He can be tried in India as well as in England. Is the Hon'ble Member entitled to ask us to pass a law affecting this jurisdiction given by an Act of Parliament? Sir, this Bill, when passed into law, will give very wide, drastic and dangerous powers into the hands of the executive authorities. These powers will affect very little the real terrorists, but will be a cause of constant irritation to the mass of the people. There are good officers and bad officers. Among the higher officials there will be certainly a tendency to apply the provisions of the Act with moderation, but what about the large number of men, say, the police constables, on whom will fall the brunt of the work. Even in normal times cases of corruption are not rare among them—this measure will enable this class of men to commit a good deal of mischief even against the wishes of the Hon'ble Member in charge of the Police Department. If the idea gets abroad that there can be no redress against highhanded action on their part, further corruptions and demoralisation will follow. I hope the Hon'ble Mr. Reid will agree with me when I say that the standard of honesty of these ill-paid subordinates depends to a great extent on the mentality and attitude of the public. It can do them no good if the populace is cowed down by a display of unrestricted and unchallengeable license to do whatever they like.

The Hon'ble Mr. R. N. REID: I beg to oppose the motion, Sir. The clause was put in there because it was considered that it was necessary for the protection of Government officers against the possible consequences of having done what they believed to be their duty. I do not know whether the mover of the motion was misled by the words "for anything done, or in good faith intended to be done." The clause says "for anything done or in good faith intended to be done." As the clause stands, the words "in good faith" qualify the words "intended to be done," only, whereas "good faith" was obviously intended to qualify "anything done" as well. There is an amendment on this subject coming up later and I will deal with

it further in that connection. As regards the Government of India Act, as I read it, it is not in any way ousted by the provision of this clause; with these words I oppose the motion.

Mr. SHANTI SHEKHARESWAR RAY: In view of the statement made by the Hon'ble Member, I beg to withdraw my motion.

The motion was then, by leave of the Council, withdrawn.

Maulvi TAMIZUDDIN KHAN: I beg to move that in clause 18, line 4, the words "Civil or" be omitted. My intention is that the power of instituting civil suits in case of wrong-doing on the part of Government officers should be retained, but so far as the criminal proceedings are concerned, they may be exempted from that. It has been said that if officers have to do their duties with the fear of civil or criminal proceedings hanging over their heads, they would be rather shy of performing their duties properly. I am prepared to consider so far as criminal proceedings are concerned; so far as civil liability is concerned, it should not be done away with as it will serve as a salutary check upon the actions of Government officers who are going to be invested with extraordinary powers of a highly drastic character.

The Hon'ble Mr. R. N. REID: I oppose the motion on the ground that in the opinion of Government the whole section is necessary; it is necessary to protect the officers against civil proceedings as well as criminal proceedings. The one without the other would not be suitable. So I oppose the motion.

The motion of Maulvi Tamizuddin Khan was put and lost.

Babu KISHORI MOHAN CHAUDHURI: With your permission, Sir, I beg to move my motion in an amended form, *viz.*, that in clause 18, lines 5 and 6, for the words "done, or in good faith intended to be done," the words "in good faith done or intended to be done," be substituted.

The Hon'ble Mr. R. N. REID: Sir, I am prepared to accept it.

The motion of Babu Kishori Mohan Chaudhuri was put and agreed to.

Mr. PRESIDENT: The question is that clause 18, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 19.

Mr. PRESIDENT: The question is that clause 19 stand part of the Bill.

The motion was put and agreed to.

Clause 20.

Mr. PRESIDENT: The question is that clause 20 stand part of the Bill.

The motion was put and agreed to.

Clause 21.

Mr. PRESIDENT: The question is that clause 21 stand part of the Bill.

Mr. NARENDRA KUMAR BASU: I move that in clause 21 (*1*), lines 2 and 3, the figures "160" and "506" be omitted.

Members of the House have not perhaps all seen the Penal Code. Section 160 of the Penal Code deals with an affray, the definition of which is that two or four persons fighting in a public place are said to commit an affray Why those people who commit an affray should be held to be liable to be arrested without warrant and not released on bail is more than I can comprehend. I hope the Hon'ble Member will please enlighten the House on this point. As regards section 506, which deals with criminal intimidation, even that is bailable, compound able and non-cognisable under the present law, and why these minor offences should attain to the gravity of being cognisable and non-bailable in this Bill is difficult to make out. I hope the Hon'ble Member will be pleased to state why it is necessary to insert these two sections, in this particular clause of the Bill.

6-15 p.m.

The Hon'ble Mr. R. N. REID: Sir, I would oppose this amendment. I think perhaps these two sections have been incorporated in the Bill as a measure of abundant caution so to speak. I admit that they are apparently trivial, but in the first place there is no harm in putting them in the Bill. In the second place, this Bill is intended to deal with offences arising out of the terrorist movement and cases of affray and criminal intimidation connected with the doings of terrorists may

have very much more serious consequences than they ordinarily have. That is the only point I would urge against this amendment.

The motion of Mr. Narendra Kumar Basu was then put and lost.

Mr. PRESIDENT: The question is that clause 21 stand part of the Bill.

The motion was put and agreed to.

Clause 22.

Mr. PRESIDENT: The question is that clause 22 stand part of the Bill.

Mr. P. BANERJI: Sir, with your permission I would like to make a little alteration in my amendment and that is that before the words "Presidency Magistrate" the word "Chief" be inserted. The amended amendment will then run as follows:—

"That in clause 22, lines 3 and 4, for the words 'the Commissioner of Police' the words 'Chief Presidency Magistrate' be substituted."

Sir, as, in this Bill, the powers of the Local Government ought to be exercised by the District Magistrate, I think in this matter the powers should be given to the Chief Presidency Magistrate and not to the Commissioner of Police.

The Hon'ble Mr. R. N. REID: Sir, I beg to oppose this amendment. The Commissioner of Police has been inserted here because the duties of the Chief Presidency Magistrate are entirely judicial and the Commissioner of Police, for all ordinary purposes, is the counterpart of the District Magistrate in Calcutta.

Mr. NARENDRA KUMAR BASU: Sir, I beg to support this amendment. In doing so, I must say that the reason given by the Hon'ble Member for opposing this amendment is not at all a convincing one. The powers that are conferred upon the District Magistrate by this Bill and the powers which may be delegated under section 16 to the District Magistrate are powers which are not associated with police officers, for example, the power to sequester movable and immovable properties, the power to require the assistance of persons under section 10, etc., and these powers are certainly powers which ought to be exercised by a person having some judicial training. It is, therefore, extremely necessary that when the chapter is extended to the presidency town of Calcutta, the District Magistrate should mean the Chief Presidency Magistrate and not the Commissioner of Police.

The motion of Mr. P. Banerji was then put and a division taken with the following result:—

AYES.

Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chaudhuri, Babu Kisheri Mohan.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Choudhury, Maulvi Nural Absar.
Faziullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hossain, Maulvi Muhammad.
Kasem, Maulvi Abul.
Khan, Maulvi Tamizuddin.
Khan, Mr. Razaur Rahman.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Mookerjee, Mr. Syamaprosad.
Rai Mahasai, Munindra Deb.
Ray, Babu Khetter Mohan.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Sen, Babu Nagesh.
Roy, Babu Satyendra Nath.
Roy Choudhuri, Babu Nem Chandra.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Austin, Mr. J. M.
Baksh, Maulvi Shaik Rahim.
Bal, Babu Lalit Kumar.
Barma, Rai Sahib Panchanan.
Blandy, Mr. E. H.
Chaudhuri, Khan Bahadur Maulvi Nafizur Rahman.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. C.
Das, Rai Bahadur Kamini Kumar.
Eusufji, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Forrester, Mr. J. Campbell.
Gangali, Rai Bahadur Sunil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. C. R.
Hirtzel, Mr. H. A. P.
Hussain, Maulvi Latafat.
Kerr, Mr. W. J.
Khan, Maulvi Amin-uz-Zaman.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Lesson, Mr. C. W.
Maguire, Mr. L. T.
Mitter, the Hon'ble Sir Provash Chunder.
Mortimer, Mr. H. R.
Mullick, Mr. Mukunda Behary.
Nandy, Maharaja Sris Chandra, of Kasim bazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. C. V.
Rahman, Mr. A. F. M. Abdur.
Ray Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Rees, Mr. J.
Roy, Mr. Saileswar Singh.
Ray, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sahana, Babu Satya Kinkar.
Sarkar, Rai Sahib Rebati Mohan.
Sen, Mr. S. R.
Solaiman, Maulvi Muhammad.
Stapleton, Mr. H. E.
Thomas, Mr. M. P.
Thompson, Mr. W. H.
Townend, Mr. H. F. V.
Twynam, Mr. H. J.
Wilkinson, Mr. N. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

The Ayes being 24 and the Noes 56, the motion was lost.

Mr. PRESIDENT: The question is that clause 22 stand part of the Bill.

The motion was put and agreed to.

Clauses 23 and 24.

Mr. PRESIDENT: The question is that clauses 23 and 24 stand part of the Bill.

The motion was put and agreed to.

Clause 25.

Mr. PRESIDENT: The question is that clause 25 stand part of the Bill.

Mr. NARENDRA KUMAR BASU: Sir, I beg to move that in the first proviso to clause 25(*1*), lines 1 to 3, the words "shall make a memorandum only of the substance of the evidence of each witness examined and" be omitted.

Sir, here is an instance where I think unwittingly—I must say that so far as the Hon'ble Member is concerned, he must have done so unwittingly—but having taken the language from the Ordinance, he must be held to be an accessory after the fact; there is a deliberate attempt to mislead the Council. This clause begins: "In the trial of any case under this Act the special Magistrate shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates." The procedure for the trial of warrant cases is given in Chapter XXI of the Criminal Procedure Code, sections 251 to 259. I shall not tire the patience of the House by reading all those sections but the really important provisions are that in the trial of warrant cases evidence is taken under section 356 of the Code and that when it is necessary to recall any witness for the prosecution for cross-examination by the defence, the Magistrate is bound to give time to the defence to have the witness recalled.

6-30 p.m.

Having begun by saying that the Magistrate shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates, they give the go-by to the only two really important and relevant provisions for the procedure for the trial of warrant cases by saying in the first proviso "that the special Magistrate shall make a memorandum only of the substance of the evidence of each witness examined.....," that is to say, the special Magistrate shall proceed on the lines of summons cases. Sir, for the information of the members of the House who are not familiar with this, I may mention that by section 355 "in summons cases tried before a Magistrate other than a Presidency Magistrate.....the Magistrate shall make a memorandum of the substance of the evidence of each witness as the

examination of the witness proceeds," whereas under section 356 "in all other trials.....the evidence of each witness shall be taken down in writing.....by the Magistrate or Sessions Judge, or in his presence and hearing and under his personal direction and superintendence and shall be signed by the Magistrate or Sessions Judge." This is the provision for warrant cases. This is very important, especially as in this particular Bill provision has been made that the special Magistrate may pass extraordinary sentences. It is very necessary that the evidence should be taken down in the manner prescribed by the Code of Criminal Procedure for taking down evidence in warrant cases, and specially, as I say, when the section begins by saying that it shall follow the procedure for the trial of warrant cases and then says that the Magistrate shall make a memorandum only of the substance of the evidence, a form of wording which is not used in the Code even in the case of summons cases. Even in the case of summons cases a Magistrate is not bound to make a memorandum of the substance of the evidence. He may or may not record the whole of the evidence in full. The punishment for a summons case is very much less than what the Code empowers to be passed in the case of warrant cases. To say that the procedure shall be as prescribed in the Code and then to restrict it by the words "shall make a memorandum only" is, I submit, Sir, not only improper and inequitable, but, if I may use the expression, is thoroughly dishonest.

[At 6-35 p.m. the Council was adjourned for prayer and it reassembled at 6-45 p.m.]

The Hon'ble Mr. R. N. REID: I should like to say that I am prepared to accept Mr. N. K. Basu's amendment No. 177 as it stands and also amendments Nos. 180-182 that the second proviso to clause 25(*1*) be omitted.

The motion of Mr. Narendra Kumar Basu was then put and agreed to.

Mr. NARENDRA KUMAR BASU: I beg to move that the second proviso to clause 25(*1*) be omitted.

The motion was put and agreed to.

Mr. PRESIDENT: The question is that clause 25, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 26.

Mr. PRESIDENT: The question is that clause 26 stand part of the Bill

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 26, lines 2 and 3, after the word "transportation" the punctuation comma be inserted.

The effect of that would be that a special Magistrate shall not be entitled to pass any sentence of transportation. I think having regard to the persons who will be invested with the powers of special Magistrates, imprisonment not exceeding seven years, is quite sufficient, and it will not be necessary to enable them to pass the sentence of transportation.

The Hon'ble Mr. R. N. REID: I beg to oppose this amendment. It was the deliberate intention to put in this clause and give the special Magistrates these powers which have been given to them by clause 26, *i.e.*, to pass a sentence of transportation which shall not exceed a term of seven years. As I said before, this Bill is intended only to deal with terrorist crime, and since a sentence of transportation may have a deterrent effect that the special Magistrates were empowered under this Bill to pass a sentence of transportation. That point was considered very carefully also by the Select Committee, and they decided to make no change in the Bill. I oppose this amendment.

The motion of Mr. Narendra Kumar Basu was put and lost.

Mr. PRESIDENT: The question is that clause 26 stand part of the Bill.

The motion was put and agreed to.

Clause 27.

Mr. PRESIDENT: The question is that clause 27 stand part of the Bill.

Mr. NARENDRA KUMAR BASU: Before I move my amendment, am I to understand that the question of an appeal in other cases will have to be made to the High Court?

The Hon'ble Mr. R. N. REID: The appeal included in this Bill is only against sentence below a certain degree of severity. The reason for that is that the appeals against sentences above that degree of severity are intended to lie to the High Court and this Council is not empowered to legislate in respect of the High Court. The Government of India have untertaken to legislate on the point at once so as to allow an appeal to the High Court against a sentence of transportation not exceeding two years.

Mr. NARENDRA KUMAR BASU: In view of that, I do not want to move my amendment that in clause 27 (*1*), lines 2 and 3, the words "transportation for a term not exceeding two years or of" be omitted.

MUNINDRA DEB RAI MAHASAI: Sir, I beg to move that in clause 27 (*2*), line 2, for the word "fifteen" the word "thirty" be substituted.

Sir, one who is clapped in prison suffers from various disabilities. For him communication with the outside world is not an easy task. Provisions in the Jail Code are very strict in the matter. I heard complaints from some pleaders about the difficulty they had to experience in order to receive instructions from political prisoners. Not only they have to apply for permission to interview the prisoners, but they have to wait for the pleasure of the jailor. They are required to wait too long for an interview. Cases were not few when they had to come back disappointed for days together. When they get the interview in the presence of the jail officials, they have to remain outside the netted barrier and cannot get full view of the prisoner even.

And then comes the question of finance. To file an appeal means the expenditure of a lot of money. The prisoners are not generally in affluent circumstances. In a majority of cases, the relations have got to raise loans to bear the cost for appeals. This required time. Reasonable time should be given for filing appeals. To get copies of judgments and depositions, generally takes more than a week's time and consultations with vakils and counsels may take another week and the drawing up of the appeal and the necessary formalities cannot be properly done unless sufficient time is given, and the raising of loans also requires time. Taking all these things into consideration, I think 15 days would be too short a time for the filing of an appeal. If reasonable time is not given, I would not be surprised if the public would complain that the time has been deliberately shortened to limit the number of appeals with a view to defeating the ends of justice. This would be a very serious allegation which it would be difficult for Government to refute. In all fairness, I appeal to the Hon'ble the Home Member to accept this reasonable amendment to extend the time-limit to 30 days.

The Hon'ble Mr. R. N. REID: Sir, I am prepared to accept this amendment.

The motion of Munindra Deb Rai Mahasai was put and agreed to.

Mr. PRESIDENT: The question is that clause 27, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clauses 28 to 33.

Mr. PRESIDENT: The question is that clauses 28 to 33 stand part of the Bill.

The motion was put and agreed to.

The Schedule.

Mr. PRESIDENT: The question is that the Schedule stand part of the Bill.

The motion was put and agreed to.

The Preamble.

Mr. PRESIDENT: The question is that the Preamble stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Mr. R. N. REID: I beg to move that the Bengal Suppression of Terrorist Outrages Bill, 1932, as settled in the Council, be passed.

MUNINDRA DEB RAI MAHASAI: Sir, I rise to oppose the passing of the Bill. I think the great Czar of Russia, had he outlived the revolution, could not have claimed greater autocracy than that provided for in this Bill which I should call the Oppression of the Civil Population Bill. Sir, during the last quarter of a century, by means of statutes and ordinances, the executives had been given ample opportunities to root out anarchism from the land. The ways and methods adopted by them have been directed into wrong channels for which they have signally failed to achieve the end. They have not been able to kill, not even to scotch, the canker of anarchism which has tarnished the fair name of Bengal. Like the perverse child, they would not acknowledge their failure but would hold other people who have got nothing to do with terrorism responsible and penalise them. They know of only one remedy and that remedy is repression. They have tried it times without number but failed miserably. Yet like the quack doctor they would not hesitate to insist on the use of the same patent medicine which has proved worse than the disease. My venerable friend Mr. Abul Kasem has asked us to give another chance to that quack treatment, the inefficacy of which has been proved beyond doubt. Yes, we are prepared to concede only on one condition and that condition is that in case the remedy does not prove efficacious and terrorism is not wiped out of the country within a measurable distance of time, say,

within the next twelve months, you should voluntarily abdicate the governance of the country in our favour and let the parting be a renewal of love. Do you accept the challenge? If you do, we are ready to support you in the passage of your Bill, otherwise not.

7 p.m.

Mr. SHANTI SHEKHARESWAR RAY: I oppose the motion. We have done our best to persuade the Hon'ble Member to remove the objectionable features of the Bill. I must admit that the Hon'ble Mr. Reid has accepted some of the suggestions made from this side of the House and we are grateful to him for that. Although minor amendments have been made here and there, the measure remains after all totally unacceptable. At this late hour of the debate I shall not touch upon any difficult subject but will content myself with offering our most emphatic and unequivocal opposition. Now that the measure is likely to be passed, I shall appeal to the Government that they will exercise their powers with moderation so that the measure will not be abused.

Maulvi ABUL KASEM: I offer my sympathy to the Hon'ble Member in charge of the Bill for having done an unpleasant piece of work. It has been said that some attempts have been made to remove some of the objectionable features of the Bill. I think this measure in itself is not a desirable one and the whole piece of legislation is more or less from a judicial point of view objectionable, but we cannot for a moment forget that it is an evil, but a necessary evil. The situation in this country is such that many unpleasant works have to be done and to be got through and the only thing I can hope is that within a very short period, if I may quote the words of Rai Mahasai, within a measurable distance of time, there may not be any necessity for a measure like this. I know also and I appreciate the feelings of my friends that this great power is given in the hands of the executive which in many cases will be exercised by some subordinates and the powers will occasionally be abused. But there is no help for it. The situation created by our people is such that it leaves no other alternative. I remember once Lord Ronaldshay, the late Governor of Bengal, telling me that "You people by carrying on agitation practically place the Governor and the Government in the hands of the police, because unless we give power to the police and give them full opportunity, they will come and say we will not be responsible for peace and order in the city and in the province. So we have to submit to them." My answer to my friends is that we have given this power to the executive and to the Governor—unlimited power if I may say so—simply because we have been forced to do so by the disorderly, anarchical and outrageous conduct of a large section of my countrymen.

Rai Bahadur KAMINI KUMAR DAS: Sir, this Suppression of Terrorist Outrages Bill has its origin in the incidents of Chittagong and it, therefore, behoves me as an inhabitant of Chittagong to convey my thanks to the originator of this Bill not because he has given us something which is desirable but because he holds out before us, the people of Chittagong, a hope that this will serve as an antidote to combat against the fell disease which the people are now suffering from. My thanks are due to him for his calmness and discretion in accepting our amendments specially about absolving the females of our country and rendering any assistance required for suppressing these terrorist outrages.

Mr. NARENDRA KUMAR BASU: We on this side of the House have made our attitude absolutely patent during the last few days. We are absolutely opposed to the principle of this Bill because, as we have said so often, in our considered judgment the provisions of this Bill will defeat the purposes for which they are sought to be enacted.

As has been said by my friend Mr. Ray, we have nothing but praise for the way in which the Hon'ble Mr. Reid personally conducted the discussion on this Bill, but that does not in any way take away the effect of this Bill and we cannot by any manner of means give any support to placing this Bill on the Statute Book. If it were permitted on this occasion to go into the larger question of suppression of terrorism, I think I might have done so, but I do not think on the present occasion it is necessary for me to say anything more than to repeat what I have already said that we are deliberately of opinion that far from suppressing terrorism, if the provisions of this Bill, as enacted, are not judicially administered, it will result in the extension of terrorism. Now that with an assured majority behind him the Hon'ble Member will have this Bill placed in the Statute Book, I appeal to him, who has got a giant's strength, to see that the powers given under it are not abused, in the manner of a giant.

Khan Bahadur Maulvi AZIZUL HAQUE: I think it my duty from this side of the House to recognise the way in which Mr. Reid has tried to accommodate himself to the wishes of the House in tempering the provisions of the Bill. If we give our support to this Bill, it is because we feel that there are occasions which require remedies such as are provided in this piece of legislation. It is the duty of all citizens to help the executive in driving away the disease. I do not agree with my friend Mr. Basu that this Bill will also be ineffective. Unless the power given in this Bill is judiciously administered, it will naturally frustrate its object. I appeal to the Hon'ble Mr. Reid, who is in charge of the Police Department, to see that we may not ultimately have to hear that this Bill has not been administered judiciously. I personally think that in the interest of the whole Government, the

police and the executive will exercise the powers with judicial restraint and moderation. I believe that if this is done, it will at least mitigate the evil which we are trying to eradicate. I think that if the power is used in the way in which the Hon'ble Member has pushed the Bill through the Select Committee and has tried to temper it in the House, there will be no cause of complaint. We support this Bill because we feel that we are not in a position to judge whether this Bill is right or wrong and because the executive in times of emergency must be given such extraordinary powers.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: No one can welcome a Bill like this, nor do the Government feel a pleasure in introducing a Bill of this nature which gives wide powers to the police. But considering the present circumstances the Government have been forced to bring this Bill. When there is no other option but to swallow the bitter pill, the best course would be to minimise the evil as much as possible. So we cannot but be thankful to the Home Member Mr. Reid for the way in which he has piloted the Bill through this Council. On the amendments moved by us he has agreed to certain provisions which are beneficial to the people of the country. Especially on behalf of the landlords and members on this side of the House, I offer my best thanks to the Hon'ble Member for accepting most of the amendments in cases which affected vitally the interests of the landlords as also of the people of the country. With these words, I beg to offer my best thanks to the Hon'ble Mr. Reid.

Mr. P. BANERJI: In opposing this Bill Mr. Basu has suggested that the object of the Bill will be frustrated. You are aware that I also suggested while moving an amendment that this Bill instead of suppressing terrorism will manufacture terrorist outrages. I still maintain that this will certainly manufacture terrorists. The main features of this Bill are that the right of trial by jury and trial by Magistrate and the right of appeal are being taken away and the sentence enhanced and the safety of person and property is being taken away. In fact, it is taking away in disguise many of our rights and privileges. From our point of view the Hon'ble Member has not given any assurance that the powers will be used judiciously. So far as our past experience goes, during the last two years the law has not been administered judiciously. There has been oppression and ruthless oppression. By passing this Act of oppression Government will carry the banner of independence to the country. Most of the people will perhaps welcome it, but our objection is that the country is not yet ripe for it. The result of this Bill will be that there will be chaos and the maintenance of British rule will be difficult.

Mr. J. CAMPBELL FORRESTER: I feel that in dealing with this Bill we have to take into consideration what has already been said.

Most of us regret the necessity of a Bill of this nature, but we all understand that the abnormal conditions that prevail at present require abnormal remedy. In my opinion, there is an apparent weakness in this Bill; there is no clause or at all events no clear clause dealing with sedition; we all know that the seditionist is one of the causes of terrorism. We have men in public positions, who speak in parks, who speak in public places, men of great personality and men of standing, who create an impression on immature youths by their seditious speeches and produce the effect of the moth and the candle. Those who preach lawlessness with the one purpose of inflaming the youth should be dealt with drastically. In fact, these persons place themselves in the position of one who offers a child a bottle of poison to play with and then watches the poison move nearer to its mouth and contemplates the ensuing convulsion and death. They stand by and then put forth a plea that they have not done it. They have not caused the death of the child, but they merely permitted it. That, I think, is the position of the seditionists. I would like to see something in the Bill dealing clearly with this class of persons.

When dealing with the amendments, we talked about the question of death sentence. Personally I do not believe in capital punishment, although it is the only real cure for all violent crimes; as it is certain when the man or woman is dead, they cannot commit any more crimes. If you wished to be cruel with your punishment, then give them "The Cat" which is a much greater and much severer punishment than the punishment of these people by hanging. Flogging by "The Cat" and imprisonment for life is the cruelest of all punishments. I reluctantly support the Bill because it is essential that we should have such a Bill to deal with the abnormal state of affairs.

7-15 p.m.

The Hon'ble Mr. R. N. REID: Sir, I should like to add one word. It is prompted by the remarks made by the last speaker but one that I have given no assurance whatever as to the manner in which this Bill will be administered. I have a very clear recollection of having given assurances on several occasions that the Bill, so far as Government can see to it, will not be administered in a way which is calculated to harass or to put to inconvenience or loss those who may come into contact with its provisions. Anyhow, I wish to say once more at this stage, now that the Bill is going to be passed, that Government has no intention of abusing the powers which the Council has given them in this Bill. For my part as long as I am in my present position, or as long as I am in this department as Chief Secretary, I will do my utmost to see that no abuse occurs in the administration of this Bill. I should like also to say without any fear of contradiction that the gentleman for whom

it is my privilege to be acting or for the matter of that any member, if he were in my position, would have given exactly the same assurance.

The motion that the Bengal Suppression of Terrorist Outrages Bill, 1932, as settled in Council, be passed was then put and a division taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Baksh, Maulvi Shaik Rahim.
Bal, Babu Lalit Kumar.
Barma, Rai Sahib Panchanan.
Blandy, Mr. E. N.
Chaudhuri, Khan Bahadur Maulvi Ali-muzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. C.
Das, Rai Bahadur Kamini Kumar.
Eusufji, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Forrester, Mr. J. Campbell.
Gangali, Rai Bahadur Susil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdel-kerim.
Gilchrist, Mr. R. N.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hirtzel, Mr. H. A. F.
Hussain, Maulvi Latafat.
Kasem, Maulvi Abul.
Kerr, Mr. W. J.
Khan, Maulvi Amin-ur-Zaman.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Lester, Mr. C. W.
Maguire, Mr. L. T.
Mitter, the Hon'ble Sir Provash Chunder.
Momin, Khan Bahadur Muhammad Abdul.
Mullick, Mr. Mukunda Behary.
Nandy, Maharaja Sris Chandra, of Kasim-bazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. C. V.
Rahman, Mr. A. F. M. Abdur-.
Ray Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Rees, Mr. J.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sarkar, Rai Sahib Rabati Mohan.
Sen, Mr. B. R.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Solaiman, Maulvi Muhammad.
Stapleton, Mr. H. E.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

NOES.

Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kisheri Mohan.
Chowdhury, Maulvi Nural Absar.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Mookerjee, Mr. Syamaprosad.
Sai Maharaj, Manindra Deb.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Roy, Babu Satyendra Nath.

The Ayes being 58 and the Noes 12, the motion was carried.

Adjournment.

The Council was then adjourned till 3 p.m., on Wednesday, the 7th September, 1932, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Wednesday, the 7th September, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 104 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Disbursements of landlords' fees and process fees under the Bengal Tenancy Act.

*223. **Babu KISHORI MOHAN CHAUDHURI:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to lay on the table a statement of the collections and disbursements made of the landlords' fees and process fees under the Bengal Tenancy (Amendment) Act, 1928, for the period from the beginning when the said Act came into operation, up to the 31st March, 1932, district by district, as shown in the form noted below?—

Landlords' fee.						Process fee.			
16 annas landlords.			Co-sharer landlords			16 annas landlords.		Co-sharer landlords.	
Fee deposited.	Paid to landlords.	Made over to the district boards concerned.	Fee deposited.	Paid to landlords.	Made over to the district boards concerned.	Amount realised.	Amount spent.	Amount realised.	Amount spent.

(*b*) What special facilities have been provided by recent rules enabling the co-sharer landlords to draw their shares of the fees deposited?

(*c*) How have these rules been promulgated for general information as well as for the co-sharer landlords concerned either through the press or in any other way?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) Statements showing receipts and payments of landlords' fees and landlords' transfer fees and process fees under the Bengal Tenancy (Amendment) Act, 1928, since the Act came into force up to 31st March, 1932, are laid on the table.

The figures are provisional.

Separate figures for 16 annas landlords and for co-sharer landlords are not available.

(*b*) No such changes have been made recently in the statutory rules, but certain facilities have been given by executive orders as shown in the statement laid on the table.

(*c*) The orders have been communicated to the local officers and a communiqué was published explaining the procedure for withdrawal of the fees.

STATEMENT A.

Statement referred to in clause (a) of starred question No. 223, showing (1) the amount of landlords' fees and landlords' transfer fees realised, (2) the amount paid to landlords from 1st April, 1929, to 31st March, 1932.

These figures are provisional.

District.	Fees deposited.	Paid to landlords.	Made over to district boards concerned.
	Rs.	Rs.	
Bakarganj	5,51,409	3,68,015	Nil.
Bankura	1,32,054	1,13,811	"
Birbhum	3,67,896	2,47,237	"
Bogra	3,91,477	2,99,739	"
Burdwan	5,97,141	4,62,305	"
Chittagong	2,21,937	1,94,919	"
Dacca	10,61,363	6,57,687	"
Dinajpur	5,39,190	4,02,275	"
Faridpur	5,22,245	3,12,574	"
Hooghly	4,59,036	3,88,704	"
Howrah	3,15,510	2,10,206	"
Jalpaiguri	1,11,376	97,586	"
Jessore	1,40,878	88,786	"
Khulna	2,07,324	1,79,078	"
Malda	3,35,865	2,88,933	"
Midnapore	6,75,414	5,25,615	"
Murshidabad	3,34,513	2,85,098	"
Mymensingh	12,95,136	9,70,480	"
Nadia	2,43,079	1,66,654	"
Noakhali	2,64,712	2,20,904	"
Pabna	5,26,660	3,23,144	"
Rajshahi	4,37,883	3,02,101	"
Rangpur	6,05,809	4,90,650	"
Tippera	6,49,870	4,45,189	"
24-Parganas	3,82,784	2,64,643	"
Total	..1,15,71,763	83,06,935	

STATEMENT B.

Statement referred to in the reply to clause (a) of starred question No. 223.

District.	Process fee realised from 1st April, 1929, to 31st March, 1932.	Amount spent on postage of notices from 1st April, 1929, to 31st March, 1932.
	Rs.	Rs.
Bakarganj	54,453	18,780
Bankura	28,350	8,023
Birbhum	33,626	22,727
Burdwan	57,415	35,255
Chittagong	64,751	17,862
Dacca	49,312	63,640
Dinajpur and Jalpaiguri	40,836	26,476
Faridpur	38,860	36,748
Hooghly and Howrah	55,107	25,435
Jessore	20,224	8,571
Khulna	16,003	8,369
Midnapore	79,762	32,720
Murshidabad	27,932	16,500
Mymensingh	61,544	49,900
Nadia	21,878	14,250
Noakhali	45,529	16,225
Pabna and Bogra	44,323	39,382
Rajshahi and Malda	32,703	19,802
Rangpur	23,532	12,340
Tippera	37,381	26,465
24-Parganas	56,580	22,650
Total ..	8,90,101	5,22,120

Total receipts from process fees and transmission fees up to March, 1932—Rs. 22,42,962.
Total expenditure (direct and indirect) up to March, 1932—Rs. 24,33,274.

Statement of facilities afforded to co-sharer landlords by executive orders referred to in clause (b) of starred question No. 223.

(i) Court fees on applications under the first proviso to section 26C (3) and joint application of co-sharer landlords for transfer fees have been remitted. This concession has been given to sole landlords also.

(*ii*) A co-sharer landlord applying for separate payment under the first proviso to section 26C (*3*) or proviso to section 26E (*4*) may include in his application any number of items of deposits and appoint a pleader or a revenue agent to represent him in respect of the application and to take payment of transfer fee on his behalf.

(*iii*) A co-sharer landlord submitting an application under rule 29 (*7*) in response to a notice issued to him under rules 29 (*2*) and 29 (*3*) may get his share of the transfer fee without producing any document to prove his title and possession provided that there is no dispute.

(*iv*) Two or more co-sharer landlords having less than 16-anna share may file a joint petition with a single *rakalatnama* or *muktearnama* for the withdrawal of two or more items of transfer fees, provided the applicant claims the same share under the same interest and title.

(*v*) Payment of transfer fee is made to the heir of the deceased landlord or the purchaser of the interest of the landlord named in the notice on production of a power of attorney. This applies to sole landlords also.

(*vi*) If a co-sharer landlord applying for separate payment is unable to state in his application the share of each of the remaining co-sharer landlords as required by rule 29 (*2*), the Collectors may relax the rules.

Maulvi SYED MAJID BAKSH: With reference to answer (*c*), will the Hon'ble Member be pleased to state what steps have been taken to inform the people who are interested in it?

The Hon'ble Sir PROVASH CHUNDER MITTER: By the issue of a communique, which is referred to in answer (*c*).

Babu HEM CHANDRA ROY CHOUDHURI: With reference to statement B, will the Hon'ble Member be pleased to state what is the indirect expenditure?

The Hon'ble Sir PROVASH CHUNDER MITTER: I would like to have notice. This matter was fully discussed in connection with some items during the budget discussion, but I may say that, generally, indirect expenditure includes cost of supervision and other kinds of costs.

Babu HEM CHANDRA ROY CHOUDHURI: I wanted to know the different items, constituting indirect expenditure.

The Hon'ble Sir PROVASH CHUNDER MITTER: I want notice.

Special scholarships granted to backward classes students of medical schools and colleges.

*224. **Babu AMULYADHAN RAY:** Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to lay on the table a statement showing for the last five years—

(*i*) how many stipends or special scholarships have been awarded to the students of the backward classes reading in the medical schools and colleges of Bengal; and

(*ii*) the names and castes of the students who have secured them?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (*i*) A statement is laid on the table.

(*ii*) A list showing the names and castes of the students has been compiled. Government are not prepared to publish the names, but they would be quite willing to let the member see the list.

Statement referred to clause (i) of starred question No. 224, showing the number of stipends and scholarships awarded to the students of the backward classes in the Medical College and the Government Medical Schools during the last five years.

		1931-32.	1930-31.	1929-30.	1928-29.	1927-28.
I.	Medical College ..	..	3	3	2	4
II.	Campbell Medical School ..	11	7	13	8	12
III.	Dacca Medical School	2	3	5	5	5
IV.	Lytton Medical School ..	1	2	..	..	..
V.	Ronaldshay Medical School ..	2	2	4	4	2
VI.	Jackson Medical School ..	..	..	..	..	..
VII.	Chittagong Medical School ..	..	..	..	..	..
	Total ..	16	17	25	19	23

Grand Total—100.

Abolition of a forest circle.

*225. **Rai Bahadur SATYENDRA KUMAR DAS:** With reference to the reply given to starred question No. 157 at the Council meeting held on the 23rd March, 1932, will the Hon'ble Member in charge of the Revenue (Forests) Department be pleased to state—

(i) what action has been taken by Government to close down one circle; and

(ii) what steps have been taken for the retirement of the personal assistant said to be due in June, 1932?

MEMBER in charge of REVENUE (FORESTS) DEPARTMENT (the Hon'ble Alhadj Sir Abdelkerim Chuznavi): (i) The question is under consideration.

(ii) The personal assistant has been granted an extension of service for one year by the Conservator of Forests, Southern Circle.

Khan Bahadur Maulvi AZIZUL HAQUE: Is there not a rule that extension of service should not ordinarily be granted?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: I am not aware.

Khan Bahadur Maulvi AZIZUL HAQUE: Is there not any rule with regard to second or third extensions?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: Such cases are governed by special rules.

Rai Bahadur SATYENDRA KUMAR DAS: Will the Hon'ble Member be pleased to state if the present extension is the last extension or further extension will be given?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: I am not aware. Such extension is within the jurisdiction of the Conservator of Forests, who has been given discretion in this matter.

Khan Bahadur Maulvi AZIZUL HAQUE: Is it not a fact that such extensions ultimately cost more money to Government?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: It is a matter of opinion.

Bengal Veterinary College.

*226. **Babu JITENDRALAL BANNERJEE:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state whether the Principal and other officers of the Bengal Veterinary College are entitled to have their private prescriptions made up by the compounders employed in the college hospital and served out of the hospital stores?

(*b*) Is it a fact that the Principal and other officers of the college do get their private prescriptions made up and served from the college hospital?

(*c*) Has the Hon'ble Minister received any complaint to that effect from any employee or ex-employee of the hospital?

(*d*) If the answer to (*c*) is in the affirmative, will the Hon'ble Minister be pleased to state whether any inquiry has been made into the matter?

MINISTER in charge of AGRICULTURE AND INDUSTRIES DEPARTMENT (the Hon'ble Nawab K. G. M. Faroqui, Khan Bahadur): (*a*) and (*b*) No.

(*c*) Yes, from two dismissed compounders of the college.

(*d*) No.

Babu JITENDRALAL BANNERJEE: With reference to answer (*a*) and (*b*), will the Hon'ble Minister tell us whether his answer is based upon the report of the Principal or of the officers concerned?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: It is based on the report of the head of the department.

Babu JITENDRALAL BANNERJEE: We do not know who is the head of the department. Will the Hon'ble Minister please make it clear?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: The head of the department is the Director, Civil Veterinary Department.

Babu JITENDRALAL BANNERJEE: My question was: Is the information supplied now based upon the report of the Principal?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: We received a report from the head of the department that the allegation was false.

Babu JITENDRALAL BANNERJEE: Was the report submitted by the Principal, and is that report the basis of the present answer?

The Hon'ble Nawab K. C. M. FAROQUI, Khan Bahadur: I do not know. We got the report from the head of the department.

Babu JITENDRALAL BANNERJEE: With regard to answer (*d*), will the Hon'ble Minister be pleased to tell us why no inquiry was held into the matter?

The Hon'ble Nawab K. C. M. FAROQUI, Khan Bahadur: Because the allegation came from a tainted source and the head of the department was satisfied that the allegation was false

Babu JITENDRALAL BANNERJEE: I do not know who is the head of the department, to whom he is constantly referring. Will he please answer who is the head of the department?

The Hon'ble Nawab K. C. M. FAROQUI, Khan Bahadur: I have repeatedly answered that the head of the department is the Director, Civil Veterinary Department.

Hindu School, Calcutta.

*227. **Babu AMULYADHAN RAY:** Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) whether the Hindu School of Calcutta is managed by the Government;

(*ii*) whether the head master and other teachers of the said school are paid by the Government;

(*iii*) whether students of all castes of the Hindus are able to obtain their education in that school; and

(*iv*) whether students belonging to the depressed classes are admitted into the school?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*i*) and (*ii*) Yes.

(*iii*) and (*iv*) No.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Minister be pleased to inform the House whether the Hindu School was not established mostly from money raised by the Hindu inhabitants of Bengal?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: When it was first established, large funds were contributed by the Hindus.

Mr. NARENDRA KUMAR BASU: Was any portion of these funds given by any of the depressed classes?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I think the European community also contributed to this fund.

Mr. NARENDRA KUMAR BASU: Are the Europeans a depressed class of Hindus according to the Hon'ble Minister for Education, Bengal?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: No. What I meant to say was that the Hindus were not the only community to contribute to that fund.

Khan Bahadur Maulvi AZIZUL HAQUE: Are the depressed classes excluded from the Hindu community?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: No.

Khan Bahadur Maulvi AZIZUL HAQUE: If these schools are open to Hindus, then why is it that depressed classes are not admitted there?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: At the time when the Hindu School was first started it was meant exclusively for respectable Hindus.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Minister be pleased to state whether the school is still open to respectable Hindus only?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Minister be pleased to state if the depressed classes do not belong to the respectable class of Hindus?

(No reply.)

Khan Bahadur Muhammad ABDUL MOMIN: Will the Hon'ble Minister be pleased to say whether he does not consider these restrictions against the depressed classes as irrational?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: It is a matter of opinion.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Minister be pleased to state whether the original founders of this institution intended that it should be open to caste Hindus only?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes.

Babu SATYA KINKAR SANANA: Is the Hon'ble Minister so versed in the Hindu *shastras* as to know all the intricacies of the structure of Hindu society?

Mr. PRESIDENT: That question does not arise.

Rai Sahib SARAT CHANDRA BAL: Will the Hon'ble Minister be pleased to state whether any one not belonging to the caste Hindus is excluded from entering that institution?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes.

Estates auctioned for non-payment of Government revenue.

*228. **Rai Bahadur KESHAB CHANDRA BANERJI:** Will the Hon'ble Member in charge of the Revenue Department be pleased to lay on the table a statement showing separately for each *kist* the number of estates put up to auction sale for non-payment of Government revenue during 1931-32?

The Hon'ble Sir PROVASH CHUNDER MITTER: A statement is laid on the table. Figures of the number of estates put up to auction are not available.

Statement referred to in starred question No. 228, showing the number of estates and shares of estates sold by auction for arrears of Government revenues in 1931-32.

Sale held in—			Number advertised.	Number sold (separate figures for each *kist* are not available).
June, 1931	..	..	3,982	1,120
September, 1931	..	..	2,366	
January, 1932	..	..	3,253	
March, 1932	..	..	3,610	

Rai Bahadur SATYENDRA KUMAR DAS: Will the Hon'ble Member be pleased to state how many out of the 1,130 estates sold off belonged to the Dacca Division?

The Hon'ble Sir PROVASH CHUNDER MITTER: I want notice.

Kurigaon local board election.

*229. **Kazi EMDADUL HOQUE:** (*a*) With reference to the reply given to unstarred question No. 26 of the 11th August, 1932, is the Hon'ble Minister in charge of the Local Self-Government Department aware that 13 nomination papers of the Ulipur and Nageswari local board constituencies were rejected on technical grounds?

(*b*) If so, will the Government be pleased to order re-election in these two constituencies?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) All nine nomination papers for Nageswari thana had to be rejected.

Of the seven from Ulipur, two had to be rejected, one was withdrawn.

(*b*) No. The seats for Nageswari thana will be filled by nomination.

Kazi EMDADUL HOQUE: Will the Hon'ble Minister be pleased to state if all the nomination papers were rejected?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I want notice.

Kazi EMDADUL HOQUE: Does not the Hon'ble Minister think that by proposing to fill up the vacancies by nomination he will be denying the electors the right of votes and exercise of the right of franchise?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: These nominations are made under certain sections of the Local Self-Government Act and those sections do not contemplate to give the option of election when there is no election at all. As there were no valid nomination, so there were no election, technically.

Internee Babu Subodh Ranjan Bal.

*230. **Babu SATISH CHANDRA RAY CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state—

(*i*) when was Babu Subodh Ranjan Bal, son of Soshi Kishore Bal, of Uthuri, Mymensingh, interned at Ramgati, an island in Noakhali;

(*ii*) when was he brought from Ramgati and placed in Noakhali sub-jail; and

(*iii*) what was the reason of his removal from Ramgati?

(*b*) Is it a fact that he developed symptoms of insanity at Ramgati and the Ramgati police having reported the fact to the Superintendent of Police, Noakhali, Babu Subodh Ranjan Bal has been brought to Noakhali?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Member be pleased to state whether Subodh Babu was examined by the Civil Surgeon since he was brought to Noakhali? If so, when?

(*d*) Did the Civil Surgeon submit any report or make any note or record of his condition?

(*e*) Will the Hon'ble Member be pleased to lay on the table a copy of the said report, note or record?

(*f*) What arrangements have been made so far for the proper treatment of Subodh Babu and with what result?

(*g*) Is it a fact that Babu Probodh Ranjan Bal, brother of détenu Subodh Ranjan Bal, saw the détenu at Ramgati on the 13th and 14th June last with the Deputy Inspector-General's permission?

(*h*) Will the Hon'ble Member be pleased to state whether the said Probodh Ranjan Bal, muktear, Mymensingh, applied on the 1st July last to the Deputy Inspector-General, I.B., Bengal, praying that Subodh Babu might be interned at home and thus his relations be given an opportunity for his treatment in the way they thought best?

(*i*) Has any action been taken on that application?

(*j*) Will the Hon'ble Member be pleased to state whether the Government contemplate to release him or at least to home-intern him on suitable conditions for reasons of health?

(*k*) Is it a fact that the local doctor attached to the Ramgati charitable dispensary prescribed a suspensory bandage for Subodh Babu 5 months ago, but the same has not been supplied yet?

(*l*) If the prescribed bandage has not been supplied what are the reasons?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) (*i*) Towards the end of July, 1931.

(*ii*) About the middle of June, 1932.

(*iii*) For medical examination.

(*b*) Yes.

(*c*) Yes, on the 24th of June, 1932.

(*d*) Yes.

(*e*) Government are unable to supply a copy of the report of the Civil Surgeon as it is a confidential document.

(*f*) Government were advised that the détenu should not be allowed to live alone and he has, therefore, been sent to a place where he can associate with other détenus.

(*g*) Government have no information.

(*h*) Yes.

(*i*) Babu Probodh Ranjan Bal was advised to move Government in the Political Department.

(*j*) No.

(*k*) A suspensory bandage was prescribed by the local doctor on 17th April, 1932, and was purchased and sent to the détenu who received it on 3rd May, 1932.

(*l*) Does not arise.

Babu JITENDRALAL BANNERJEE: With reference to answers (*b*), (*c*), (*d*) and (*e*), is it a fact that the détenu has developed symptoms of insanity?

The Hon'ble Mr. R. N. REID: My answer to (*b*) is yes.

Babu JITENDRALAL BANNERJEE: With reference to answer (*g*), that Government have no information, will the Hon'ble Member be pleased to state if they wanted information from the authority in question, whether they made any attempt to obtain such information?

The Hon'ble Mr. R. N. REID: My answer is that they did.

Babu JITENDRALAL BANNERJEE: The question is a demand for information. So was it not due to Government to supply that information?

The Hon'ble Mr. R. N. REID: Question (*g*) is as follows: "Is it a fact that Babu Probodh Ranjan Bal, brother of détenu Subodh Ranjan Bal, saw the détenu at Ramgati on the 13th and 14th June last with the Deputy Inspector-General's permission," and my answer to this was "Government have no information".

Mr. PRESIDENT: Mr. Banerjee wants to know if Government attempted to supply that information.

The Hon'ble Mr. R. N. REID: Of course they did.

Babu JITENDRALAL BANNERJEE: It may be that in the present, they did, but in other cases, although we wanted certain information, Government always say that they have no information. Do they deny to publish such information; or they are not in possession of the information?

The Hon'ble Mr. R. N. REID: I think this information could be supplied by the détenu himself.

3-15. p.m.

The Hon'ble Mr. R. N. REID: I think the point is that as the information was presumably supplied by the détenu himself, Government did not see any reason to obtain it, nor did it ascertain from the Deputy Inspector-General whether a visit was paid to the détenu by his brother.

Babu SATISH CHANDRA RAY CHOWDHURY: With reference to answer (*c*), will the Hon'ble Member be pleased to state whether the Civil Surgeon's report regarding the nature of the disease and the cause thereof contains anything of such a nature as to be treated confidential?

The Hon'ble Mr. R. N. REID: There are several reports which are confidential.

Babu SATISH CHANDRA RAY CHOWDHURY: Will the Hon'ble Member be pleased to state whether because insanity was the result of maltreatment or injury to the détenu the report is treated as confidential?

The Hon'ble Mr. R. N. REID: No.

Mr. B. C. CHATTERJEE: Will the Hon'ble Member be pleased to state, having regard to Government's admission in answer (*b*) that the détenu in question did develop signs of insanity, whether the Civil Surgeon's report deals with the physical and mental condition of the détenu or whether it deals with matters other than these?

The Hon'ble Mr. R. N. REID: I have not the report of the Civil Surgeon before me unfortunately and I cannot answer the question.

Babu SATISH CHANDRA RAY CHOWDHURY: With reference to answer (*f*), will the Hon'ble Member be pleased to state whether the statement of the Civil Surgeon that the détenu should associate with other détenus was the only recommendation made by him in the case?

The Hon'ble Mr. R. N. REID: I am afraid I cannot answer this question offhand.

Mr. B. C. CHATTERJEE: May I know whether the Hon'ble Member, or the Chief Secretary or any of the Secretaries has seen the Civil Surgeon's report at all?

The Hon'ble Mr. R. N. REID: I have not seen it.

Mr. B. C. CHATTERJEE: Has the Chief Secretary seen this report?

Mr. H. J. TWYNAM: No.

Mr. B. C. CHATTERJEE: Is there anybody on the treasury bench who has seen this report?

Babu JITENDRALAL BANNERJEE: As the result of the Civil Surgeon's report, is the Hon'ble Member in a position to say that the détenu is insane now?

The Hon'ble Mr. R. N. REID: I must ask for notice of this question, as I do not know what the present condition of the détenu is.

Payment of landlords' fees.

***231. Rai Sahib SARAT CHANDRA MUKHOPADHAYA:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state what are the actual amounts in deposit with the Collectors of Burdwan, Midnapore, Howrah and Rangpur on account of the landlords' fees and transmission fees under the Bengal Tenancy Act up to 31st March, 1932?

(*b*) Are the Government considering the desirability of issuing instructions to the respective Collectors to transmit without delay the landlords' fees to the sole landlords or to the common agents duly appointed and registered in the Collectorate by the co-sharer landlords?

(c) Is the Hon'ble Member aware that the departments of the district collectorates in Burdwan and Midnapore specially are compelling the sole landlords or the properly appointed and registered common agents of co-sharer landlords to draw their dues by formal applications to the court in each case instead of transmitting the same by postal money-order as provided in the Act?

(d) Have the Government issued any instructions or executive orders to the Collectors to insist on such applications being made?

(e) Are the Government considering the desirability of remitting the postal transmission fees realised from the tenants to the landlords or to common agents who have been compelled to file applications to withdraw the deposits?

(f) Do the Government intend taking steps against the officers of the departments concerned in the said districts for detaining the landlords' fees for a long time?

The Hon'ble Sir PROVASH CHUNDER MITTER: (a) A statement is laid on the table.

Figures of cost of transmission are not readily available.

(b) According to Statutory Rule 28 (1) the transfer fee due to a sole landlord shall, on receipt of the acknowledgment of the notice sent under rule 26 (1), be transmitted by postal money-order to the landlord or his agent or to the common agent or common manager as the case may be. No further instructions are necessary.

(c) No; an inquiry is being made.

(d) No.

(e) Does not arise.

(f) Steps will be taken if any specific instances of unnecessary detention are brought to the notice of Government.

Statement referred to in clause (a) of starred question No. 231, showing balance of landlords' fees and landlords' transfer fees in deposit on the 31st March, 1932.

The figures are provisional.

Burdwan—Rs. 1,34,836
Midnapore—Rs. 3,49,799
Howrah—Rs. 1,06,302
Rangpur—Rs. 1,15,159

(Includes landlords' transfer fees also.)

Détenus' insurance premia.

*232. **Mr. H. BIRKMYRE:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state whether it is a fact that Government have, during the current financial year, paid the insurance premia on behalf of certain détenus?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state whether before making these payments, Government were satisfied that these were old policies and not taken out immediately before the persons in question were arrested?

(*c*) Are the Government proposing to recover the amounts of premia paid on behalf of these détenus as soon as they may be allowed to resume their normal vocations?

The Hon'ble Mr. R. N. REID: (*a*) Yes: in special cases.

(*b*) Yes.

(*c*) No.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state whether the amounts paid on account of premia due to the détenus represent only a portion or the whole amount?

The Hon'ble Mr. R. N. REID: I think it means the entire amount.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state whether one of the items of the insurance premia paid is in respect of the insurance on the life of Mr. Sarat Chandra Bose?

The Hon'ble Mr. R. N. REID: Mr. Sarat Chandra Bose is not a détenu under the Criminal Law Amendment Act but is detained under Regulation III of 1818.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state why payments have not been made in respect of all the policies?

The Hon'ble Mr. R. N. REID: I must ask for notice of this question.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state why premia have been paid only in special cases and not in all cases?

The Hon'ble Mr. R. N. REID: I must ask for notice.

Marketing Bengal fruits.

*233. **Babu SATYENDRA NATH ROY:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state what steps, if any, have been taken by the department for better marketing of Bengal fruits both at home and abroad?

(*b*) Has the attention of the Hon'ble Minister been drawn to the steps taken in other provinces?

(*c*) If so, does he intend to take any such steps?

The Hon'ble Nawab K. C. M. FAROQUI, Khan Bahadur: (*a*) No. The Royal Commission on Agriculture made a recommendation on this point; but their proposal involves investigation by a marketing officer whom it is not possible to appoint in the present financial condition.

(*b*) Yes.

(*c*) Not at present.

Babu SATYENDRA NATH ROY: Will the Hon'ble Minister be pleased to state whether the appointment of such an officer is absolutely necessary for such investigation?

The Hon'ble Nawab K. C. M. FAROQUI, Khan Bahadur: Yes, according to the recommendation of the Royal Commission on Agriculture.

Babu SATYENDRA NATH ROY: Will the Hon'ble Minister be pleased to state whether it is not a part of the duty of the Hon'ble Minister in charge of the Department of Agriculture to see that some steps are taken for the better marketing of fruits in Bengal?

The Hon'ble Nawab K. C. M. FAROQUI, Khan Bahadur: That is the province of the Commerce Department and not mine.

Professor of History in the Presidency College, Calcutta.

*234. **Mr. SARAT KUMAR ROY:** (*a*) Is the Hon'ble Minister in charge of the Education Department aware that an advertisement appeared in the *Statesman* of the 5th August for the post of a Professor of History in the Presidency College on a superior scale of pay with provision for overseas allowance, the last date for receiving such applications from candidates being the 22nd August?

(*b*) If the answer to (*a*) is in the affirmative, what are the reasons for allowing only 17 days for submitting applications for the post?

(*c*) Is it not a fact that this short period is likely to deprive candidates from outside India (including some brilliant Indian students now in British universities) of the chance of applying for the post?

(*d*) Is it a fact that in the case of similar advertisements in the past for superior posts in the Presidency College for English, Physiology and Economics a clear interval of two to six months was allowed to the intending candidates for the same?

(*e*) Is it a fact that the post of Professor of History is intended to be filled up on the 19th September or as soon thereafter as possible?

(*f*) Is it a fact that the Presidency College closes on the 28th September and that there will remain only 4 weeks' work for the full session after the re-opening of the college?

(*g*) Is the Hon'ble Minister aware that Mr. Benoy Kumar Sen, in whose place the new History post is going to be created, has got only 7 hours' work per week during the full session?

(*h*) If so, is the Government considering the desirability of distributing his work among his colleagues after his transfer?

(*i*) Is the Government considering the desirability of keeping the question in abeyance till the Retrenchment Committee has finished its labours and till the beginning of the next session?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) Yes.

(*b*) Because it is contemplated to fill the post with effect from 19th September, 1932, or as soon after that date as possible.

(*c*) Yes.

(*d*) Yes.

(*e*) Yes.

(*f*) Yes.

(*g*) No.

(*h*) Does not arise.

(*i*) No, Government have already satisfied themselves as to the necessity of filling this post as soon as it falls vacant.

Babu JITENDRALAL BANNERJEE: With reference to answer (*e*), will the Hon'ble Minister be pleased to state what is the urgent necessity for filling up this post with effect from the 19th September?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Because the work has got to be done by somebody.

Babu JITENDRALAL BANNERJEE: Is it not a fact that the Presidency College closes on the 28th of September for the Puja vacation?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes.

Babu JITENDRALAL BANNERJEE: Is it not a fact that it remains closed for more than a month from that date?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes.

Babu JITENDRALAL BANNERJEE: In that case, considering that there are only 11 working days before the vacation, what was the urgent necessity for filling up this appointment?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: We had to fill up the appointment.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Minister be pleased to state for how many hours the lecturer will have to work during these 11 days?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I must ask for notice.

Working hours of professors and lecturers in Colleges.

***235. Babu KISHORI MOHAN CHAUDHURI:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact that the course of studies prescribed by the Universities of Calcutta and Dacca and the Board of Intermediate and Secondary Education, Dacca, are not completed in the Government Arts Colleges during academic years?

(*b*) Will the Hon'ble Minister be pleased to state the average number of hours per week in which professors and lecturers are to work in the classes during the full session as well as in the slack session, in the Science and Arts departments?

(*c*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state whether it is in the contemplation of Government to increase the number of working hours of the professors and lecturers?

(*d*) Will the Hon'ble Minister be pleased to state how many professors and lecturers in the Government colleges have been engaged in original and research works both in the Arts and Science departments during the last 5 years?

(*e*) Will the Hon'ble Minister be pleased to state the percentage of such teachers taking up original works?

(*f*) Will the Hon'ble Minister be pleased to lay on the table a list of such original works published in recognised journals by such teachers?

(*g*) Is the Hon'ble Minister aware that summer vacation and other holidays of the Government colleges are much longer when compared with the number of holidays in other departments of the Government?

(*h*) Is the Government considering the desirability of reducing the number of holidays and increasing the working hours, specially of those who are not engaged in original works?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) The courses of study prescribed by Calcutta University and the Board of Intermediate Education, Dacca, are as a rule completed in the Government colleges concerned during each academic year. There have, however, been instances in recent years in which small portions of certain subjects have had to be left unfinished in certain colleges owing to circumstances beyond the control of the college authorities, *e.g.*, political unrest among students, strikes, picketing, etc., and also sudden changes of staff. The course of studies prescribed by Dacca University is not followed in any Government college.

(*b*) It varies from 30 to 15 periods per week during the full session, and from 15 to 7 periods per week during the slack session, in the Arts and Science departments combined.

(*c*) Does not arise.

(*d*) Ninety.

(*e*) 33·3 per cent.

(*f*) A list is laid on the Library table.

(*g*) Yes. Educational institutions all over the world enjoy longer holidays than other places of work.

(*h*) No.

Détenu Prodyot Kumar Ghosh subsequently convicted.

***238. Maulvi HASSAN ALI:** Will the Hon'ble Member in charge of the Political Department be pleased to state whether détenu Prodyot Kumar Ghosh residing at Kumarganja, police-station in the Dinajpur district has been paid his personal and family allowances for the period he was an undertrial prisoner and for the term of his imprisonment? If not, why not?

The Hon'ble Mr. R. N. REID: His domicile allowance was withdrawn with effect from the date when he was committed to jail as an undertrial prisoner. From that date he received the usual jail allowance for détenus.

His family allowance was withdrawn with effect from the date of his conviction.

On conviction by a criminal court orders against a détenu under the Bengal Criminal Law Amendment Act are suspended and the détenu ceases to be entitled to any allowance under that Act.

Undertrial prisoner late Anil Das.

***237. Mr. NARENDRA KUMAR BASU:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state—

(*i*) when was the statement mentioned in the report of the District Magistrate of Dacca made by the undertrial prisoner Anil Babu at the Kotwali police-station;

(*ii*) was it recorded; if so, by whom;

(*iii*) was it shown to the Additional District Magistrate when the application for remand to police custody was made to him; and

(*iv*) when was the order for remand to police custody made by the Additional District Magistrate?

(*b*) Will the Hon'ble Member be pleased to state if such an order as referred to in (*a*)(*iv*) had been made, why Anil Babu was produced before the Deputy Magistrate on the 7th June and an order obtained for remand to *hajat* till 21st June?

(*c*) Why did Mr. S. N. Chatterjee, Subdivisional Officer, say on the 9th June that no order for police custody was on record?

(*d*) Why did the Additional District Magistrate himself say on the 9th June, "The order for remand to police custody, if any, should be on the record"?

(*e*) Did the mother of Anil Babu make an application to the Magistrate on the 8th June for the removal of her son from police custody?

(*f*) Was the supply of food to Anil Babu from his house disallowed on the 8th? If so, why?

(*g*) Was any other person removed from the Kotwali lock-up to the Lalbagh police-station on the ground that the former was "hot and stuffy"?

(*h*) Was the "usual food of rice and curry" received by Anil Babu, eaten by him?

The Hon'ble Mr. R. N. REID: (*a*)(*i*) The statement referred to was made on the afternoon of the 6th June, 1932.

(*ii*) It was recorded by the Additional Superintendent of Police, District Intelligence Branch, on the 7th June.

(*iii*) No.

(*iv*) On the 7th June, 1932.

(*b*) The order for remand to police custody was passed after the order for remand to jail custody.

(*c*) Because the order for remand was then with the police.

(*d*) Because after communication to the police the order should have been filed with the record.

(*e*) An application was filed by his mother on the 9th June, 1932.

(*f*) No.

(*g*) No. Anil Das was transferred at the suggestion of his uncle, Babu Probodh Kumar Das.

(*h*) It is not possible to say how much of the food supplied was eaten by him as information of this kind is not usually kept on record.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state, with reference to answers (*a*)(*i*) and (*ii*), how it was possible to record the statement on the 7th June which was made on the previous day?

The Hon'ble Mr. R. N. REID: I understand what happened was that on the first day, *i.e.*, the 6th, the prisoner was questioned generally on what he had to say and then he was given a night to think over it and the statement was taken down on the following day.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state whether the statement was repeated on the following day?

The Hon'ble Mr. R. N. REID: I cannot say whether the exact statement was repeated on the following day.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state whether some statement was made by the prisoner?

The Hon'ble Mr. R. N. REID: I presume so, otherwise why was it taken down?

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state, with reference to answer (*a*)(*iii*), why the statement was not shown to the Additional District Magistrate when the application for remand to police custody was made?

The Hon'ble Mr. R. N. REID: I am not aware.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state whether it is not a fact that on application for remand all papers are put before the Magistrate?

The Hon'ble Mr. R. N. REID: That may be so.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state how two orders were passed by two Magistrates regarding the same person?

The Hon'ble Mr. R. N. REID: I am afraid I cannot explain as I have not got the record of the case before me. The record of the case had to be sent back for the purpose of trial.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state whether he can refer to any section, code or regulation which allows a prisoner, when he is undergoing trial being remanded by one Magistrate to jail and by another Magistrate to police custody?

The Hon'ble Mr. R. N. REID: I am afraid I must ask for notice.

3-30 p.m.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state with reference to answer (*b*) whether the Additional District Magistrate knew of this order for remand to police custody?

The Hon'ble Mr. R. N. REID: I think the hon'ble member is quoting from a remark by the Magistrate on the petition.

Mr. NARENDRA KUMAR BASU: On the order sheet.

The Hon'ble Mr. R. N. REID: I have not the order sheet before me. But the words "if any" imply that the Magistrate had not seen the order sheet.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state if this is compatible with the statement made in the official statement by the District Magistrate on the death of Anil Das that this order was passed by the Additional District Magistrate himself?

The Hon'ble Mr. R. N. REID: It certainly does not appear to be, but there may be some explanation of which I am not aware.

Mr. NARENDRA KUMAR BASU: With regard to answer (*h*) has the attention of the Government been drawn to the post-mortem report which shows that the stomach and the lower intestine was absolutely empty, and would that be compatible with his having taken any food on the morning of the day or within 72 hours of his death?

The Hon'ble Mr. R. N. REID: I am not familiar with post-mortems; I am unable to answer that.

Mr. NARENDRA KUMAR BASU: Considering that these questions were put about a month ago, and it has taken a month or so to answer them; they have been divided up into 4 compartments, have any inquiries been made on them?

The Hon'ble Mr. R. N. REID: All the answers to the questions are the result of inquiries.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether it is not the practice to note down all orders on the same sheet?

The Hon'ble Mr. R. N. REID: Not necessarily, Sir, I should think.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Separate electorate for Muhammadans to the Corporation of Calcutta.

113. Mr. A. RAHEEM: (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware that the provision for separate electorate for Muhammadans to the Calcutta Corporation will expire with the life of the present term of the Corporation?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state whether the Government propose taking steps for the extension of the period of this provision?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) Yes.

(*b*) No. Government do not consider such steps to be necessary in the present circumstances.

Maulvi ABUL KASEM: Will the Hon'ble Minister be pleased to state whether notice of a non-official Bill on this subject is now before the Government, and whether it could not be taken up because it was too late?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: The hon'ble member told me that he proposed to give notice of a Bill, but Government has not yet received notice of any Bill.

Maulvi ABUL KASEM: Will the Hon'ble Minister be pleased to state that when the Bill comes up before this House, Government will support it?

(No answer.)

Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Minister be pleased to state as the Government does not like to continue with separate electorates, does the Government intend to introduce a Bill providing for joint electorates with reservation of seats?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: No Bill is necessary because the Act provides that.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Minister be pleased to tell us whether the Act provides for reservation of seats on the population basis?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I cannot say whether it is exactly on the population basis or not, but it is reservation of seats.

Khan Bahadur Maulvi AZIZUL HAQUE: In case it is not on a population basis, is Government prepared to bring a Bill providing for this?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Government will consider the question, but cannot make any definite promise.

Rai Bahadur Dr. HARIDHAN DUTT: Will the Hon'ble Minister be pleased to state whether it is a fact that six months' notice is absolutely necessary before a new voters' list can be framed?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I want notice of this.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Minister be pleased to state whether the number of Muhammadan candidates to be returned in the next election will be the same or more or less than the number at the last?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Yes, it is exactly the same number.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Minister be pleased to state whether any effort was made by the Government to ascertain the public opinion of the Moslems?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Government did not consider this necessary.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Minister be pleased to state if the Government has received any representation from any Moslem association asking for an extension of the period?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Not that I know of.

Landlords' transfer fees.

114. Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Member in charge of the Revenue Department be pleased to lay on the table a statement showing separately for each year since the enforcement of the Bengal Tenancy (Amendment) Act, 1928, up to such time for which figures are available—

(i) the total amount of landlords' transfer fee prescribed by sections 26D and 48H, that has been paid by the parties concerned; and

(ii) the amount of such landlords' fee that has accumulated in the hands of Government?

The Hon'ble Sir PROVASH CHUNDER MITTER: (i) and (ii) A statement showing receipts and balance of landlords' fees and landlords' transfer fees is laid on the table. Separate figures of receipts and payments of landlords' fees are not available.

Statement referred to in unstarred question No. 114.

The figures are provisional.

Receipts—

1929-30—Rs. 42,63,336
1930-31—Rs. 40,90,538
1931-32—Rs. 32,17,889

Total—Rs. 1,15,71,763

Balance in deposit—Rs. 32,64,828

Silting up of the river Padma near Rajshahi town.

115. Rai Bahadur SATYENDRA KUMAR DAS: (*a*) Is the Hon'ble Member in charge of the Irrigation Department aware that the river Padma in front of the town of Rajshahi has been remaining dry for about nine months annually during the last 2 years?

(*b*) Is the Hon'ble Member also aware—

(*i*) that general flushing of the town in the rainy season is now being hampered with;

(*ii*) that the general health of the Rajshahi town has deteriorated;

(*iii*) that there is an indication of the prevalence of increased malaria and other diseases in the Rajshahi town;

(*iv*) that the main current of the river Padma has been shifted by the process of bundelling;

(*v*) that there has been deterioration of trade through the river channel, and inconvenience to the travelling public?

(*c*) Are the Government intending to take any steps for the improvement of navigation through the Padma in front of the Rajshahi town all the year round?

MEMBER in charge of IRRIGATION DEPARTMENT (the Hon'ble Alhadj Sir Abdelkerim Chuznavi): (*a*) The river Padma in front of the Rajshahi town is divided into two channels by the formation of a high *chur*. The inside channel along the town has been silting up and there is little water in it from February to June.

(*b*) (*i*) The town is flushed by sluices which operate only during high floods. The efficiency of the flushing depends on the flood level and it is not affected by the silting up of the channel.

(*ii*) The statistics for the town show no noticeable increase in general mortality or deterioration in the health of the town.

(*iii*) Figures maintained by the local dispensary show a tendency to improvement as regards malaria and practically no change as regards other diseases.

(*iv*) No.

(*v*) There has been some inconvenience to passengers and traders owing to the silting of the inner channel, but decrease in trade by river is probably due to the economic depression.

(*c*) No. It is not considered practicable nor desirable to attempt to divert the main current into the inner channel.

Rai Bahadur SATYENDRA KUMAR DAS: Having regard to the inconvenience to passengers and traders owing to the silting up of the river channel, will the Hon'ble Member be pleased to state the reason for not taking steps to opening up these river channels?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: The reason is that if the river Padma were to flow along the inside channel, it would carry away the town of Rajshahi.

Fire havoc at Chandpur.

116. Mr. SURENDRA NATH LAW: (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware of the disastrous fire that broke out at Puranbazar, Chandpur, on the night of the 3rd July last, inflicting a loss on the local merchants, estimated at not less than 10 lakhs of rupees?

(*b*) Will the Hon'ble Minister be pleased to state whether it is in the contemplation of Government to hold any inquiry to ascertain the causes of the fire?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Minister be pleased to state what steps, if any, have been taken to hold the inquiry?

(*d*) If no step has been taken up till now, are the Government considering the desirability of holding an inquiry into the matter at an early date?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) Government are aware that there was such a fire: the estimates of the loss vary from five to ten lakhs of rupees.

(*b*) A police investigation was instituted.

(*c*) and (*d*) Do not arise.

Muhammadans in the Vaccine Depot.

117. Nawabzada KHWAJA MUHAMMAD AFZAL, Khan Bahadur: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to lay on the table a statement showing separately for the last five years—

(*i*) the numerical strength of the ministerial staff of the Vaccine Depot;

(*ii*) how many of them are Muhammadans;

(*iii*) the number of vacancies which occurred during the period; and

(*iv*) how many of them have been given to the Muhammadans?

(*b*) Is it a fact that in the Vaccine Depot there is no Muhammadan?

(*c*) If the answer to (*b*) is in the affirmative, are the Government considerinng the desirability of appointing Muhammadans in future vacancies?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) (*i*) Two.

(*ii*) One.

(*iii*) Three.

(*iv*) Two.

(*b*) No.

(*c*) Does not arise.

Police force quartered at Midnapore.

118. Dr. AMULYA RATAN GHOSE: (*a*) Is the Hon'ble Member in charge of the Police Department aware that the Muhammadans and Europeans amongst the police force quartered in the residential houses of some Hindu gentlemen of Midnapore are slaughtering and cooking cows in those houses?

(*b*) Is the Hon'ble Member also aware that this has severely wounded the feelings of the Hindu population in general and the owners of those houses in particular?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) and (*b*) Inquiries have been made and, so far as can be ascertained, there is no foundation for the allegation that cows have been slaughtered in any house of a Hindu. In one case where a cow was slaughtered in the house of a Muhammadan, it is understood that the beef was cooked in another house occupied by the police, but no complaint has been received from the owner of that house.

Mr. P. BANERJI: Will the Hon'ble Member be pleased to state, now that the matter has been brought to his notice, what steps he proposes to take in the matter?

The Hon'ble Mr. R. N. REID: I am afraid I do not understand what exactly the hon'ble member expects me to say.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether inquiries have been made in this connection?

The Hon'ble Mr. R. N. REID: Inquiries have been made and the results of these inquiries are embodied in the answers to the questions.

Mr. SHANTI SHEKHARESWAR RAY: Who made the inquiries and where?

The Hon'ble Mr. R. N. REID: As regards who made the inquiries, the local officers, and as regards where, on the spot.

Mr. P. BANERJI: Will the Hon'ble Member be pleased to state, in regard to the beef that was cooked in another house, was that house a Hindu house?

The Hon'ble Mr. R. N. REID: I must ask for notice.

Dr. AMULYA RATAN GHOSE: Will the Hon'ble Member be pleased to tell us whether any complaint was made by the owner of this house?

The Hon'ble Mr. R. N. REID: I cannot recollect having seen such a complaint.

Babu SATISH CHANDRA RAY CHOWDHURY: Will the Hon'ble Member be pleased to state whether he himself is aware that it is objectionable to have beef cooked in a Hindu house?

The Hon'ble Mr. R. N. REID: I have been given to understand that.

Babu SATISH CHANDRA RAY CHOWDHURY: Will the Hon'ble Member be pleased to give us an assurance that he will pass an order that in future beef would not be cooked in any Hindu house?

The Hon'ble Mr. R. N. REID: Yes, certainly I am prepared to order that.

Muslim Female Training School, Calcutta.

119. Khan Bahadur Maulvi ALIMUZZAMAN CHAUDHURI: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) how many times and why the Moslem Female Training School has been shifted from place to place since 1926;

(*ii*) what was the rent of each of those premises;

(*iii*) what was the numerical strength of the Training Class and the Practising School at the time of each shift;

(*iv*) how many students and teachers succumbed to the epidemic outbreak in 1926 when it was situated at 15, Tangra Road;

(*v*) what led to the shifting of the school in May, 1931, to 162, Lower Circular Road; and

(*vi*) whether the opinion of the medical officer was taken regarding the sanitary condition of any of the buildings at any time before shifting?

(*b*) If the answer to (*a*) (*vi*) is in the affirmative, was the opinion obtained for the present premises? If not, why not?

(*c*) Is it a fact that the present premises are situated just close to the refuse-wagon platform?

(*d*) Do the present premises contain the requisite *purdah* necessary for the Moslem ladies and girls?

(*e*) Has there been any complaint about the unsuitability of the premises to the authorities?

(*f*) If the answer to (*e*) is in the affirmative, what steps have been taken to redress the grievances?

(*g*) How many boarders have been in indifferent health after their shift to the present site?

(*h*) Is the Government considering the desirability of providing a better house for the accommodation of the school?

(*i*) Will the Hon'ble Minister be pleased to state whether Chapter IX, Section I, item No. 39, dealing with hostel accommodation (Bengal Education Code), is applicable to the Moslem Female Training School?

(*j*) Is it a fact that at the present premises 15 boarders have been accommodated to a space of 30 ft. × 20 ft. and that the matron has no fixed room for her habitation?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) (*i*) The Moslem Female Training School, Calcutta, was shifted to different places 3 times since 1926. It was first started at 15, Tangra Road, Entally, in 1919, but was shifted to 37, Ananda Palit Road, Entally, on the 1st November, 1926, owing to an outbreak of beri-beri. It was then removed to 162, Lower Circular Road, on the 1st June, 1931, as the owner of the premises No. 37, Ananda Palit Road, did not make certain additions to and alterations in the buildings and did not undertake the necessary repairs. The accommodation in the premises No. 162, Lower Circular Road, was considered excessive for the Moslem Female Training School, which had only 15 would-be primary school teachers under training. The Government of Bengal directed that a much smaller house should be obtained at a reduced rent for the accommodation of the school. The institution was therefore moved to 17/1, Canal Street, with effect from the 1st June, 1932.

(*ii*) Rupees 250 a month for 15, Tangra Road. Rupees 400 per month for 37, Ananda Palit Road. Rupees 400 per month for 162, Lower Circular Road. Rupees 150 per month for 17/1, Canal Street.

(*iii*)

	Training students.	Practising school.
30th September, 1926 ..	10	30
31st May, 1931	11	37
31st May, 1932	16	47

(*iv*) The Head Mistress of the school and the matron succumbed to beri-beri in October, 1926. It was also reported that 3 of the girls subsequently died of beri-beri in their homes.

(*v*) The member is referred to answer (*a*) (*i*).

(vi) The opinion of the medical officer was taken as to the suitability of the building at premises No. 162, Lower Circular Road, before it was inspected by the Inspectress of Schools.

(b) No. The premises at 17/1, Canal Street, were visited and approved by the Director of Public Instruction, Bengal, the Assistant Director of Public Instruction for Muhammadan Education, Bengal, and the Inspectress of Schools. They had previously been selected for the use of a girls' school by a medical officer.

(c) The refuse-wagon platform of the Corporation is situated at a distance of 40 yards from the present building, but it is understood that its use will soon cease owing to refuse-lorries being employed.

(d) and (e) Yes.

(f) Instruction has been given to the Head Mistress to keep the premises clean and in proper sanitary condition.

(g) Two.

(h) No.

(i) Yes.

(j) The 15 girls under training were put by the Head Mistress into one room. But there is enough accommodation available in other rooms for both the girls and the matron. The Head Mistress has been instructed to allot the girls more space.

Maulvi NUR RAHMAN KHAN EUSUFJI: Will the Hon'ble Minister in charge of Education be pleased to state the reasons which led Government to reduce the rent from Rs. 400 to Rs. 150?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I have already answered the question that the house occupied by the school had too much accommodation and was not necessary. Therefore, it was removed to a house where the rent was low.

Maulvi TAMIZUDDIN KHAN: With reference to answer (j), will the Hon'ble Minister be pleased to state whether the Mistress put all the 15 girls in one room or was she compelled to do so for want of proper accommodation?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Certainly not for want of accommodation. There was enough accommodation.

Mr. S. M. BOSE: With reference to answer (c), will the Hon'ble Minister be pleased to state when the refuse-wagon platform will stop being used as such?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The Calcutta Corporation will be able to give that information.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Minister be pleased to state what is the basis of his information that the Calcutta Corporation will cease to use that refuse-wagon platform?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: We have been given to understand that it will all be removed.

Kazi EMDADUL HOQUE: Will the Hon'ble Minister be pleased to state what sort of complaint was made?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: There were too many flies.

Point of order.

Maulvi ABUL KASEM: On a point of order, Sir. To-day is the last day of the session, and I beg to appeal to you, Sir, on one matter. We, members of this House, are asked to submit our questions before a certain date. We do submit our questions; they are admitted by you one after the other, but the members of Government, when the answers are received, do not answer them serially in the order in which you pass them on, but according to the manner in which Government send their replies at their sweet will. Besides we do not know what questions will be replied to on what date, and each and every member is not expected to be present at 2-30 or 3 p.m. when it will be the sweet will of the Government to answer the questions. This is all very unfair, and it is a practice unknown in any other legislature in India or elsewhere. I want a ruling that the Government should be compelled to answer questions immediately after 15 days are passed.

Mr. PRESIDENT: I think the Leader of the House should be able to explain and satisfy the House on the point.

The Hon'ble Sir PROVASH CHUNDER MITTER: The position is this. As soon as we get notice of any question, we very promptly take steps to answer them. Hon'ble members will remember that sometimes questions are such that detailed inquiries or collection of information are necessary, and sometimes the district officers or even officers lower down in rank have to be consulted. As soon as any answer is ready, it is sent on at once. We would not object to answer

questions in the order in which they are received, but if that be done, the effect will often be that when some answers are ready, they will be held back because there are some other earlier questions the answers to which are not ready.

Mr. NARENDRA KUMAR BASU: With regard to the statement made by the Leader of the House, may I inquire whether it will be possible from the next session to give the non-official members 24 hours' notice of the questions that are to be answered?

The Hon'ble Sir PROVASH CHUNDER MITTER: I understand, Sir, that in one respect the practice which obtains in Bengal in regard to these questions does not obtain in some other countries of the world, such as England, or even in some other provinces in India. Here, the hon'ble members get the printed answers half an hour before the question time. I think this is under a standing order. In the British Parliament they do not get written answers so that there are far greater difficulties there in putting supplementary questions. There the members in the Treasury benches answer the questions orally and members of Parliament who are not satisfied with such answers have to put supplementary questions only after listening to the verbal reply, but here they get half an hour's time before the questions are actually answered.

Babu JITENDRALAL BANNERJEE: Might I suggest to the Hon'ble the Leader of the House to follow the practice that is followed in the Legislative Assembly? We do not object to that.

3-45 p.m.

Mr. PRESIDENT: I think that the Leader of the House is right in pointing out that the present practice is covered by the standing order issued by the President himself, and according to that order members are entitled to get printed answers to questions half an hour before I take my seat.

Mr. SHANTI SHEKHARESWAR RAY: Is it not the case that district officers sometimes hold up answers to questions by not supplying the information asked for?

The Hon'ble Sir PROVASH CHUNDER MITTER: That is a pure suspicion.

Khan Bahadur Maulvi AZIZUL HAQUE: My submission is whether all the questions that are put by members are answered by Members of Government. I feel that if all the questions are not answered it will be necessary for Government to inform the House that such and such questions are left over, so that it may be possible for a member, if he so chooses, to bring in a further question before the Legislative session closes.

Mr. PRESIDENT: Most of the questions are answered, so far as I know.

Khan Bahadur Maulvi AZIZUL HAQUE: My submission is with regard to questions which are not answered. Are they left over?

Mr. J. CAMPBELL FORRESTER: My experience is that that is not always done.

Khan Bahadur Maulvi AZIZUL HAQUE: Members ought to be told what questions are not likely to be answered.

Mr. PRESIDENT: It will be much simpler—less expensive and more effective—if the members kept a note of their questions. If they do so they can at once find out what questions have been answered and what have been left out.

Maulvi ABUL KASEM: With reference to the statement of the Leader of the House that we, the members of this House, enjoy better facilities because we get our answers half an hour before the President takes his seat, may I inform him that in all the Legislatures including the Assembly answers to unstarred questions are always laid on the table half an hour before they sit? As regards starred questions, the answers are verbally given on the spot and unlike this House there is no examination of the Hon'ble Member's pronunciation of English and recitation.

GOVERNMENT BILL.

The Bengal Motor Vehicles Tax (Amendment) Bill, 1932.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that the Bengal Motor Vehicles Tax (Amendment) Bill, 1932, as reported by the Select Committee, be taken into consideration.

Mr. NARENDRA KUMAR BASU: Sir, can this Bill be taken into consideration? I submit it cannot. The House will remember that on the 22nd August last this Bill was referred to the Select Committee with instructions to submit their report within three days, but it was not submitted till the 29th August, that is to say after 7 days; so it was too late by 4 days. My submission is that as the report of the Select Committee has not been presented in the time allotted by the Council it cannot be taken into consideration.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: The report could not be printed by the department as Saturday and Sunday intervened. Therefore there was three days' delay in presenting the report.

Mr. NARENDRA KUMAR BASU: The instruction was that the Select Committee should report within three days of the appointment of the committee.

Mr. PRESIDENT: Do those terms cover the presentation of the report?

Mr. NARENDRA KUMAR BASU: Sir, it is for you to judge. My submission is that if the report to the Council is made and signed and kept in somebody's pocket it cannot be a report to the Council. As the Hon'ble Minister himself says that there was three days' delay and having regard to that admission I would ask for your ruling whether it would be in order and in time to discuss this so-called report.

Mr. PRESIDENT: I am afraid what the Hon'ble Minister has said does not meet the point. The words which were employed by the House in conveying its instructions to the Select Committee in regard to time, indicate very clearly that the Select Committee had to report within the specified time; but in my opinion they did not cover the presentation of the report to the House within that period. Why does Mr. Basu shake his head?

Mr. NARENDRA KUMAR BASU: I must bow down to your ruling.

Mr. PRESIDENT: It has never been my practice to make any one swallow my ruling. I would rather like a frank exchange of ideas and thoughts. I may add that it was the Hon'ble Minister and not the committee who was responsible for the presentation of the report to the Council. That was a function which was assigned to the Hon'ble

Minister and he had to exercise it on his own responsibility. If there was any delay on his part in presenting the report it could not have vitiated the report.

Mr. NARENDRA KUMAR BASU: My submission is when the Council, or for the matter of that you, ask an officer of yours to make a report within three days and if that officer writes out a report and keeps it back and sends it to but not within the time allowed, that report cannot be considered. The very fact that the report means that it has got to be reported to somebody and although it has recorded its decision it has not sent it to the Council within three days. That is the subject matter for decision.

Mr. PRESIDENT: There is another point which you might take into consideration. You must admit that you have not raised this point at the right moment. You should have objected when the Hon'ble Minister presented the report a few days ago. It was clearly your duty then to say that the report was not presented in time. But that is immaterial as I still stick to my ruling that the terms in which the instruction of the House was conveyed to the Select Committee do not cover presentation of the report to the House, nor can delay in presentation vitiate the report necessitating another move on the part of the Hon'ble Minister in charge of the Bill to commit it to a Select Committee.

Mr. P. N. GUHA: It often happens that a select committee is asked to report within two months but there is no session of the Council held within these two months and the Member-in-charge presents the report when the Council is in session, several months after the select committee has reported.

MUNINDRA DEB RAI MAHASAI: Sir, I was one of the staunchest supporters of the Bengal Motor Vehicles (Amendment) Bill from its very inception. I whole-heartedly supported it because I was under the impression that the whole proceeds of the tax after payment of rupees four lakhs and a half to the Calcutta Corporation will be distributed to the municipalities and district boards of Bengal. But, Sir, I am rather disheartened to hear that another big claimant has stepped in to have a lion's share of the fund. That claimant, Sir, is the Road Board——

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: There is absolutely no substance in what the hon'ble member is stating. He has altogether misconceived the motion before the House.

MUNINDRA DEB RAI MAHÀSAI: I am going to support the motion of the Hon'ble Minister, but I want to put a question to him whether the Road Board will have a share in the maintenance of the roads.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: For the satisfaction of the hon'ble member I may state that the Government will follow the procedure laid down in the Act itself and will not deviate from it.

The motion that the Bengal Motor Vehicles Tax (Amendment) Bill, 1932, as reported by the Select Committee, be taken into consideration was then put and agreed to.

Clauses 1 and 2.

Mr. PRESIDENT: The question is that clauses 1 and 2 stand part of the Bill.

The motion was put and agreed to.

Clause 3.

Mr. PRESIDENT: The question is that clause 3 stand part of the Bill.

Mr. P. BANERJI: I beg to move that in clause 3 (*3*), in proposed section 4 (*2*), line 2, for the words "for the year and" the word "quarterly" be substituted.

I also move that in clause 3 (*3*), for the proposed proviso to section 4 (*2*) the following be substituted, namely:—

"Provided that a motor vehicle not being used for hire shall be exempted from the tax proportionately for the period it was idle."

I also move that in clause 3 (*4*), proposed section 4 (*3*) be omitted.

Sir, my reason for doing so is that after the passing of the Motor Vehicles Act the tax has been increased from Rs. 40 to Rs. 75 and in case of buses up to Rs. 250, and if the bus and taxi owners have now to pay the tax for the whole year all at once they will be put to great difficulty, having regard to the fact that their income has considerably gone down. My request therefore to the Hon'ble Minister is that instead of the words "for one year and" the word "quarterly" be substituted in the clause. Before the introduction of this Bill when the Calcutta Corporation used to collect these taxes the owners of cars used to pay the tax, not all at once for the whole year but used to make six-monthly payments, although the tax was only Rs. 40. Now it has

been increased several times, and, as I have said ore, the income of the owners has considerably gone down. Therefore it would be giving them some relief, without at the same time involving Government in any loss, if the owners are not required to find the tax for the whole year all at once. It may perhaps be contended that it is better for Government to realise the money all at once as it will save them a lot of trouble. I submit that the difficulties of the people should at the same time be taken into consideration. Therefore I hope the Hon'ble Minister will treat this matter sympathetically, having regard to the present economic depression of business in general and the difficulty which the owners have been put to on this account.

The Government expert is here; he is in touch with the owners and he will testify to the facts I have stated. Another thing I would point out is that the proposed section 4 (*2*) be substituted by the proviso I have suggested which says: "Provided that a motor vehicle not being used for hire shall be exempted from the tax proportionately for the period it was idle." In the present section 4 (*3*) there is a provision that the taxing officer can grant exemption to any motor car owner if he is satisfied that the motor car has not been used for any complete calendar month in the year. I say that if a car runs from the 15th of a certain month to the 15th of another month, in that case the taxing officer will not be in a position to help the owner of the car, while if a car remains idle for the full calendar month the taxing officer will be in a position to help him. So, under the same condition in one case a person will get exemption while in another he will not.

In this view of the case I appeal to the Hon'ble Minister to consider the suggestions I have put forward and extend this small concession to the owners of buses and taxis who have been hard hit both by the increased taxes and the economic trade depression. With these words I commend my motions to the acceptance of the House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose these amendments. The first amendment of Mr. Banerji is that in place of the words "for one year and" the word "quarterly" be substituted. The effect of this amendment, if carried, will be that every one will be compelled to pay the tax quarterly whether he wishes to do so or not. If the owner of a car wishes to pay tax for the whole year just to avoid the botheration of paying again and again, he cannot do so; he will have to pay only for the quarter which has become due. I would here remind the hon'ble mover and the House about the difficulties to which both the taxing officer and his office and the car owners were subjected to in June and July last. It is to avoid these difficulties that these provisions have been introduced. Moreover, the amendments proposed by Mr. P. Banerji would mean larger staff, greater delay and more expenditure in collection, more expenditure on tokens, forms, etc.

It means more expenditure on staff and accommodation, because a larger staff will require larger accommodation. The present accommodation in the motor vehicles office is barely sufficient for the present staff. Moreover, if the whole amount is not collected at one time it may mean a great loss to Government by way of interest which may amount to Rs. 10,000, and all expenditure and loss will fall not on Government but on the municipalities and district boards, who are supposed to get a share of the proceeds of the taxes. In other words, the *mufassal* municipalities and district boards will suffer. That is my reply to the first amendment which I oppose.

With regard to the second amendment, the proposal is to substitute for the proviso in the clause the following: "Provided that a motor vehicle not being used for hire shall be exempted from the tax proportionately for the period it was idle." Sir, it is a difficult proposition, and the proposal is very vague, because no car is used for 24 hours. Suppose a car is not used for only two days in the week or for one day in the week, then according to this amendment some remission has got to be given to the owner. Sir, I ask how is that to be worked out? It means a very large staff and difficulties in calculation. Moreover, this amendment of my friend, if carried, would bring about invidious distinction between private cars and cars used for hire which is not at all desirable. On these grounds I oppose this amendment too.

The third amendment is almost consequential to the second amendment. The mover's suggestion is to replace a clause which has been found workable by another which is of very doubtful merits. So I would oppose this amendment also.

The motions of Mr. P. Banerji were then put and lost.

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg to move that in clause 3 (*1*), in proposed section 4 (*3*), line 2, after the word "used" the words "or is under repair" be inserted. My idea is that the Act does not provide for cars which may be under repairs. Difficulties may arise when, for instance, an owner wants to satisfy himself whether the repair has been properly made by using it for a day or so and for that use he may be made liable for the tax. To obviate this I propose that such use should not be taken as the normal use of the car, and even when there is such occasional use for the purpose of testing whether a car has been properly repaired or not, it should get exemption.

Rai Bahadur Dr. HARIDHAN DUTT: May I ask for information from the Hon'ble Minister as to whether a car can be considered to be in use when it is kept in the garage or is under repairs?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I would refer the hon'ble member to clause 3 (*2*) (*1a*): "A person who keeps a motor vehicle of which the certificate of registration is current shall, for the purposes of this Act, be deemed to keep such vehicle for use."

Mr. NARENDRA KUMAR BASU: Does not matter whether it is in the garage or under repair.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Yes. I would now take the amendment moved by my esteemed friend Babu Kishori Mohan Chaudhuri. His proposal is that cars which are under repairs should be exempted from the tax. I think section 4 (*3*) provides for such cases: "If a taxing officer is satisfied that a motor vehicle has not been used for any complete calendar month in the year, he shall refund or remit in respect of the said vehicle one-twelfth of the tax payable for the year for every complete calendar month for which the said vehicle has not been used." If the car is not used and if it is under repair, the owner will have to give notice for suspension of registration. That is contemplated in this section and the owner will not be charged any fee during the period the car is under repair.

4-15 p.m.

The point raised by Babu Kishori Mohan Chaudhuri is rather indefinite. He asks why a car which is used for only a day or two and is on the road just for the sake of examination, whether it is in order or not, should not be exempted. I think the House will not agree to introduce a hiatus in the Act which would be very dangerous, because all cars which may be so used may claim exemption on that pretext. I do not think that we should introduce a provision like that which might endanger the public revenue. Sufficient facilities have been provided for in the Act for exempting cars which will be off the road and I think the moment a car uses the road it should be called upon to pay. So there is no necessity at all for introducing the words "or is under repair" as suggested by the mover. I would request him to appreciate the difficulty which this amendment would bring about and the loss which it may entail on public revenue. On these grounds I would ask him to withdraw the amendment.

The motion of Babu Kishori Mohan Chaudhuri was then put and lost.

Mr. PRESIDENT: The question is that clause 3 stand part of the Bill.

The motion was put and agreed to.

Clauses 4 to 9.

PRESIDENT: The question is that clauses 4, 5, 6, 7, 8 and 9 stand part of the Bill.

The motion was put and agreed to.

Clause 10.

Mr. PRESIDENT: The question is that clause 10 stand part of Bill.

Khan Bahadur MUHAMMAD ABDUL MOMIN: I beg to move that for clause 10 the following be substituted, namely:—

"10. After section 13 of the said Act the following section shall be inserted, namely:—

'13A. If a taxing officer is satisfied that in respect of any motor vehicle—

(*a*) a declaration or additional declaration has not been delivered in accordance with the provisions of section 6, within one month of the date on which such declaration or additional declaration was due, or

(*b*) any tax or additional tax payable under this Act has not been paid within one month of the date on which such tax was payable, or

(*c*) any penalty imposed under sub-section (*4*) of section 4 has not been paid within one month of the date on which such penalty was imposed;

he may, notwithstanding anything contained in the Indian Motor Vehicles Act, 1914, or any rules made thereunder, declare the certificate of registration of such motor vehicle to be suspended and such certificate shall thereupon be deemed to be suspended until the whole amount of tax and penalty, if any, due in respect of such motor vehicle has been paid.'"

Sir, in the original Bill the provision which was made for the realisation of arrear tax and other big penalties imposed under this Act, was to the effect that the Public Demands Recovery Act would be brought into force. My amendment is that in such a case the complicated machinery of Certificate Procedure will be both harassing to the payer of the tax as well as difficult for the police officers who have to levy that tax. Therefore I propose that if the tax is in arrear or is not paid the certificate of registration should automatically be suspended and remain under suspension till the tax is paid. It is a simple procedure and will not entail the cost and other expenses which action under the Public Demands Recovery Act will impose. For that reason I commend the motion to the acceptance of the House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Government have much pleasure in accepting this amendment and in doing so I may explain that this amendment will give Government additional powers of speedy realisation of the tax where it is necessary. The Act as it now stands provides for automatic cancellation of registration in case of failure of payment of the tax in time. Government have introduced provisions in the new Bill for speedy realisation and have substituted automatic cancellation of registration, but they would be glad to have this additional power, which may be used if necessary.

Mr. S. M. BOSE: I do not really understand how the Hon'ble Minister has come to accept the amendment. One of the main objects of the amending Bill was the abolition of the rule regarding cancellation of registration of cars. But in this amendment the mover wants to have the whole certificate of registration withdrawn and the owner of a car in default will have to go again through all these forms. So I think that what Government is now accepting is against one of the main objects of the Bill, namely, to keep alive registration of cars once effected.

Mr. NARENDRA KUMAR BASU: I am extremely sorry to have to say that in the whole body of Bengal Act I of 1932, I do not find any provision for the automatic cancellation of registration if the money is not paid on the due date, as the Hon'ble Minister has placed before the House. There is no such provision for cancellation, and automatic cancellation is an absolutely new thing devised by Khan Bahadur Abdul Momin.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I would draw my hon'ble friend's attention to section 4 (*4*) of the Act.

Mr. NARENDRA KUMAR BASU: That clause reads as follows:—

"Notwithstanding anything contained in the Indian Motor Vehicles Act, 1914, or any rules made thereunder a certificate of registration shall not be granted or renewed in respect of any motor vehicle until the tax in respect of such vehicle is paid, and a certificate of registration shall not be granted or renewed in respect of any motor vehicle for a period exceeding the period for which the tax has been paid in respect of such vehicle, and the certificate of registration of a motor vehicle in force at the date of the commencement of this Act shall be deemed to be cancelled unless the tax imposed under sub-section (*1*) is paid to the taxing officer within three months of such tax becoming payable."

That is quite a different thing. I may remind the Hon'ble Minister, who was once a lawyer and still has legal and other advisers, experts and non-experts behind him, that this is a quite different proposition from automatic cancellation or suspension of registration at any future time if the tax has not been duly paid and I shall ask the Hon'ble Minister to stand up and tell the House that the information that he gave the House was wrong, and that there is no provision in the Act for the automatic cancellation or suspension of registration, and that it is quite a new thing, an absolutely new thing, which has been brought into existence by the fertile brain of Khan Bahadur Momin, for whose executive ability I have the highest regard, and who has come to the rescue, I will not say rescue, but to the assistance of the Hon'ble Minister with this proposition, which I hope the House will be unanimous in rejecting.

Babu SATYENDRA NATH ROY: I oppose the amendment, Sir, which is a retrograde measure, affecting adversely the motor car owners. This was never the intention of Government when the original Act was passed; nothing of the kind was suggested even by the Government, so that now on the motion of my friend, Mr. Momin, Government wants to take away the certificate of the owner of a motor car who may fail to pay the tax within one month from date. The owner may be away in some far-away station and his officers may fail to deposit the money, and cancellation of the certificate of registration resulting therefrom would be a very harsh measure, quite unknown in the case of payment of tax on motor vehicles. So I oppose the amendment.

Mr. H. P. V. TOWNEND: May I say a few words on the opposition which this rather harmless amendment has raised? I shall deal first with the remarks of Mr. Roy, because they are still fresh in my mind. He talks about the registration being "cancelled," but if he reads the amendment he would see that there are these words: "suspended until the whole amount of tax and penalty, if any, due in respect of such motor vehicle has been paid." So long as a man does not pay the tax he exposes himself to police prosecution; he cannot run his car so long as he fails to pay the tax. So Mr. Roy's remarks are entirely beside the point, and I do not wish to deal with him any further.

I shall now take the next speaker, Mr. Basu. He has taken exception to the remarks of the Hon'ble Minister and has challenged the Hon'ble Minister to get up and prove certain statements, but the Hon'ble Minister having already made a speech has exhausted his right of speaking—and so I may congratulate Mr. Basu on winning an easy triumph over him to-day. The position is this: In the original Bill there was a provision that registration should be deemed to be cancelled unless the

tax imposed under sub-section (*1*) is paid to the taxing officer within three months of such tax becoming payable. It may not be known to the House that a very large proportion of the vehicles in Bengal came under that clause. For one reason or another, it was impossible for people to pay their tax; many people even did not know that such an Act had been passed; and the practical effect of that was that there was wholesale "automatic cancellation" of registration in Bengal. I escaped myself because I knew of it and was very careful to pay; but most people did not know and did not escape. Once registration was cancelled, the position was "automatic cancellation" every year or every four months.

Mr. NARENDRA KUMAR BASU: The object of the Bill, I may remind the House, was that "less drastic provisions have been inserted".

Mr. H. P. V. TOWNEND: But I am not dealing with that point at the present moment. Mr. Basu's contention was that the Hon'ble Minister had misled the House, but he could only say that if he took in too literal a manner the Hon'ble Minister's remark that in the original Motor Vehicles Tax Act also there was provision for "automatic cancellation". As I have shown there was, in effect, such cancellation: and speaking colloquially the Hon'ble Minister was perfectly right in what he said.—Mr. Basu has said that this amendment is contrary to the whole spirit of the amending Bill, in that this amending Bill was largely intended to make the provisions for collection less drastic. As a matter of fact the position is not as he alleges, and I am afraid Government's intention has been distorted. The criticism which I applied to Mr. Roy's speech will equally apply to Mr. Bose's speech. We maintain, Sir, that it is very much less drastic to suspend registration than to have police prosecution. It is very much less drastic than to introduce certificate procedure and drag a defaulting owner into court several times. It is really very much more convenient from the point of view of a motor car owner. Mr. Momin, who was a member of the select committee, opposed the omission of the provisions.

Mr. NARENDRA KUMAR BASU: I do not think he was in the select committee.

Mr. H. P. V. TOWNEND: But he was. The point is that cancellation and suspension are two very different things.

Mr. B. C. CHATTERJEE: May I inquire if any payment will have to be made during suspension?

Mr. H. P. V. TOWNEND: I may explain that no fee is payable when registration is renewed after suspension. Suspension is not a drastic measure. It is what is contemplated as a routine measure when a man lays up his car in a garage, for instance. He is to report this to the police, to apply for suspension of registration—that will be given him as a matter of course—and then he will be able to claim exemption from the tax for any period during which registration is suspended and not merely be able to ask for a refund for calendar months. The same suspension will come in when a man does not pay his tax, and, Sir, I do not think that there is anything to be afraid of in this. I may point out too that suspension will not be ordered as a matter of course. It will be ordered when the facts necessitate it. For instance, there is one lorry driver who has been twice prosecuted and twice convicted for not paying the tax, but he continues to drive his lorry, evading payment of the tax. That shows the relative position under the two provisions.

The motion of Khan Bahadur Muhammad Abdul Momin was then put and a division taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Syed Nausher.
Armstrong, Mr. W. L.
Austin, Mr. J. M.
Baksh, Maulvi Syed Majid.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Blandy, Mr. E. N.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Nafzur Rahman.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. C.
Das, Rai Bahadur Satyendra Kumar.
Eusufji, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Fazlullah, Maulvi Muhammad.
Forrester, Mr. J. Campbell.
Ganguli, Rai Bahadur Sunil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gritchley, Mr. R. N.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Hashim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Higgins, Mr. R.
Hirtzel, Mr. H. A. P.
Hussain, Maulvi Latafat.
Kasem, Maulvi Abul.
Kerr, Mr. W. J.
Khan, Maulvi Amin-uz-Zaman.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Khan, Mr. Razaur Rahman.
Leeson, Mr. C. W.
Maguire, Mr. L. T.
McCluskie, Mr. E. T.
Mitter, the Hon'ble Sir Provash Chunder.
Momin, Khan Bahadur Muhammad Abdul.
Mortimer, Mr. H. R.
Mullick, Mr. Mukunda Behary.
Nag, Reverend S. A.
Nazimuddin, the Hon'ble Mr. Khwaja.
Petre, Mr. B. F.
Philpot, Mr. H. G. V.
Poddar, Mr. Ananda Mohan.
Rahman, Mr. A. F. M. Abdur-.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Ray Chowdhury, Mr. K. G.
Reid, the Hon'ble Mr. R. N.
Rees, Mr. J.
Roy, Mr. Bankunar Singh.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sahana, Babu Satya Kinkar.
Sarkar, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Shah, Maulvi Abdul Hamid.
Stapleton, Mr. H. E.
Suhrawardy, Mr. H. S.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

NOES.

Banerji, Mr. P.	Maiti, Mr. R.
Bannerjee, Babu Jitendralal.	Nag, Babu Suk Lal.
Basu, Mr. Narendra Kumar.	Rai Mahasai, Manindra Deb.
Bose, Mr. S. M.	Ray, Mr. Shanti Shekhareswar.
Chaudhuri, Babu Kishori Mohan.	Rout, Babu Hosoni.
Dutt, Rai Bahadur Dr. Haridhan.	Roy, Babu Satyendra Nath.
Ghose, Dr. Amulya Ratan.	Samad, Maulvi Abdus.

The Ayes being 69 and the Noes 14, the motion was carried.

[At 4-30 p.m. the Council was adjourned for prayer and it reassembled at 4-45 p.m.]

Mr. PRESIDENT: The question is that clause 10, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 11.

Mr. PRESIDENT: The question is that clause 11 stand part of the Bill.

Mr. NARENDRA KUMAR BASU to move that in clause 11 (*4*), in column 3 of the table—

(*1*) in item No. (*a*) for the words "forty rupees" the words "thirty rupees";

(*2*) in item No. (*b*) for the words "forty-eight rupees" the words "forty rupees"; and

(*3*) in item No. (*c*) for the words "seventy rupees" the words "sixty rupees"

be substituted.

Sir, it will be in the recollection of this House that the amount of tax payable under the Act for vehicles not measuring more than 50 square feet overall is Rs. 40; that for vehicles measuring more than 50 square feet but not more than 80 square feet overall is Rs. 50 and that for vehicles measuring 80 square feet and more than 80 square feet overall is Rs. 70.

The proceeds of this tax have been considerably in advance of what the Minister expected under the Act when he introduced the Bill and there has been no falling off of the revenue, and I do not understand why, in spite of that, in these days of economic distress the motor car owner should be singled out for more and more taxation. If the Hon'ble

Minister had asked for some taxation on the landlords, the landlords would have jumped upon him, but now in these days when everything has gone up—the price of petrol has gone up during the last fortnight, tyres and tubes have gone up in price—why should this additional taxation be required? But if it were the fact that the proceeds of the taxation were not up to the expectation, there might have been something to say, but merely because the motor car owners are there, therefore they have to be taxed at this rate, that is vehicles not measuring more than 40 square feet, Rs. 40; vehicles measuring more than 40 square feet but not measuring 60 square feet Rs. 48; and those measuring 60 square feet or more Rs. 70. I submit, Sir, it is not at all just and proper that this enhanced taxation should be thrust upon motor car owners and therefore I move this amendment.

Mr. J. CAMPBELL FORRESTER: The Hon'ble Minister will remember that when this Bill was introduced I opposed it on account of injustice in taxation between the different grades of cars. I pointed out that in my opinion Rs. 3 per horse power per annum would be the most just method of taxation. But in his reply, the Hon'ble Minister stated that he recognised that there is an unfair difference between the taxation of the baby types of cars and others, but that there was a clause —clause 16, I think—by which he had power to alter any injustice in the grade of taxation, and that the baby type of cars and motor cycles and motor lorries would have his consideration in this respect. As the Hon'ble Minister has previously given that assurance and promised that this injustice, if found to be an injustice, would be remedied, I do not press my opinions further.

Mr. SHANTI SHEKHARESWAR RAY: I beg to support the amendment of Mr. Narendra Kumar Basu. I think the Hon'ble Minister is not justified in asking for further increase in taxation. So far as the people of the *mufassal* are concerned, they have to pay new taxation for owning motor cars and by this Bill they have to pay an increased amount as taxation. I think, Sir, you cannot in a very short time come up again for additional taxation in respect of these cars. So far as the *mufassal* owners are concerned, it will be a great hardship to have to pay this increased taxation, specially in these days when everybody is feeling the pinch and is in want of money.

I would also like to say a few words on the proposal of Mr. Basu that the landlords should be taxed. I do not think my friend wanted to have a fling at them. Perhaps Mr. Basu was not serious on the point and meant that increased taxation on motor cars is as unjustifiable as an increased tax on the landlords. With these words, Sir, I beg to support the amendment.

Mr. B. C. CHATTERJEE: I have been listening to the speeches and find them very disappointing. It is no use saying that a motor car is not a luxury. In all democracies one of the principal sources of taxation is luxuries. Even death is a luxury in England, and the death duties there eat up more than half of what a man leaves. If you want to have the privilege of owning a motor car and indulge in that luxury, you must pay the proper tax for it. A reference has been made to the Calcutta Corporation, and my friend Mr. Basu seems to think that it is something against the Minister that under his *regime* a better collection has been made than was the case under the *regime* of the Calcutta Corporation. It is to his credit that he has realised the tax better than the Calcutta Corporation could. Now, you cannot have it both ways. You cannot cry out for all the amenities of civilisation, and at the same time, not pay taxes. It has been said the Minister would have been the first to cry out if such an increment in existing taxation had been demanded of the landlords of Bengal. Well, Sir, I am a criminal lawyer, and therefore hold no brief for the landlords. But, surely, it is the landlords who possess motor cars more than any other classes in Bengal, and they are not therefore escaping this increased taxation. My friends who have spoken in favour of this proposal are not really serious. It may be that just at the fag end of the session, they want to indulge in a pleasant bit of foolery, just to pass the time. How can you ask the Minister to take less than what the Corporation took last years? (VOICE: Why take more?) He is not taking more, but collecting better. The motor car is a luxury and all luxuries should be taxed. If you want to avoid the payment of the tax, just dispense with your car, whether the car is a small or big one. As regards the owners of small cars, I would tell them also that if you cannot pay the tax for them, you should not use cars. A small car is a small luxury and a big car is a big luxury. You can give up the small luxury, if you like, and use buses and tram cars. But if you want to be individually in possession of a luxury of your own in the shape of a motor car, you must pay for it. Just think of the wear and tear that you cause to the roads, and why should you not pay for it? The whole idea at the back of the cry is radically wrong. Everybody in Bengal, British or Indian, must keep the reality steadily in view that democracy is the most expensive form of Government in the world, and that the incidence of taxation has been far higher under democracies than under any other type of Government. There is no getting away from this, nor from the further fact that luxuries have offered the most practical source of taxation to democracies. Of course, some of us have an idea that on getting *swaraj*, we are going to pay our Ministers Rs. 1,000 a month, and their subordinates much smaller amounts. You could only do that sort of thing by paying a terrible price for it—that of substituting for a Government that has been remarkably free from corruption one that will feed itself fat on intrigue and corruption. We know the *zamindar's*

nawb in Bengal who gets no more than Rs. 10 a month from his master, but finds himself well-off enough, after a time, to put up a *pucca* building on his homestead! I am sure you do not want that. You surely want democracy without corruption, which means you must spend a lot of money for it, and the owner of a motor car had better agree to pay what the Minister wants.

Mr. C. C. COOPER: I rise to oppose the amendment, Sir. The House only a short time ago passed the clause now before them in substantially the same form as it is again before them to-day, and I cannot see any reason for going back on the original Bill. A sad fate befell my now famous amendment, but as we have learnt on official authority to-day that Europeans are members of the depressed classes, it is not surprising that my amendment was subjected to police *zoolum*! I would be inclined to support the reduced taxation and so would my party if we thought that there was any chance of the money going into the pockets of the Treasury, but care has been taken to see that this money has been earmarked for one specific purpose only, namely, the improvement of roads throughout the province of Bengal; and no one can deny that this object is most desirable. Previously the proceeds of motor taxation went into the pockets of the Calcutta Corporation and what happened to it then we do not know, but now we do know that the money will be spent for the one specific purpose, the improvement of roads. This House therefore will take particular care to see that every anna collected will go for the improvement of roads and nothing else, and for these reasons I oppose the amendment.

Babu SATYENDRA NATH ROY: Sir, I was one of those who supported the Hon'ble Minister when he first moved this Bill in February, 1932, because the local bodies, the municipalities and district boards were feeling the want of a statute to tax these motor vehicles. The idea was that this money would be earmarked and distributed to the local bodies. Sir, by the acceptance of an amendment of Mr. Cooper regarding the measurement of motor vehicles, the tax in Calcutta was reduced from Rs. 48 to Rs. 40. I think it was never the intention of any of the members of this Council or of Government or of any person whatsoever that there ought to be a reduction of the tax for Calcutta. I think, as one concerned with municipal affairs, I must oppose this amendment of my friend Mr. Basu.

Mr. W. C. WORDSWORTH: I wish only to ask the Minister one question. Many of us have already paid Rs. 40 for this year and by so doing have saved Rs. 8. Whatever happens to this amendment, it does

not affect us for the present, but we should like to know whether there is any substance in the rumour that we shall soon be bound by an executive order to pay half of our savings to Mr. Cooper for his services in this matter. (Laughter.)

5-15 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. Mr. Basu's proposal, if carried, will reduce the total amount by Rs. 1,87,000, *i.e.*, Rs. 40,000 for small cars, Rs. 1,44,000 for cars which will be required to pay Rs. 48 instead of Rs. 40 and Rs. 3,000 on big cars. I think this argument itself will induce my friends from the *mufassal* to reject this amendment. I would remind the House that the whole of this tax is meant for the improvement of roads under the district boards and municipalities and it will go into a separate coffer and not to the general revenues of the Government. It will be spent on the advice of the Provincial Road Committee and the whole amount is meant really for the improvements of the roads in Bengal and not a pice of it will be touched by the Local Government. Mr. Campbell Forrester has made a grievance that the baby cars have been called upon to pay Rs. 40 in place of Rs. 36 as they used to pay to the Calcutta Corporation. May I ask in all seriousness Mr. Campbell Forrester, whether does he and all the brokers in Calcutta whose interest he represents in this House, grudge this extra Rs. 4? I hope they will not. If there is a real grievance the Government can always intervene under section 16 of the Act and they can reduce or exempt any cars from the taxation. Government is not aware of any such grievance at this moment.

As regards the landlords referred to by Mr. Basu, I may remind him that even the landlords, poor as they are at present, and the poorer tenants have to pay the road and public works cess and not those men on whose behalf my friend presumes to speak. He pays income-tax which goes to the Government of India, but the roads in Bengal are made and repaired out of the road and public works cess which is contributed entirely by those two classes—the landlords and tenants.

With these words I oppose the amendment.

The motion of Mr. Narendra Kumar Basu was then put and lost.

Mr. PRESIDENT: The question is that clause 11 stand part of the Bill.

The motion was put and agreed to.

The Preamble.

Mr. PRESIDENT: The question is that the Preamble stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that the Bengal Motor Vehicles Tax (Amendment) Bill, 1932, as settled in Council, be passed.

The motion was put and agreed to.

NON-OFFICIAL MEMBER'S BILL.

The Bengal Money-lenders Bill, 1932.

Khan Bahadur Maulvi AZIZUL HAQUE: I beg leave to introduce the Bengal Money-lenders Bill, 1932.

The motion was put and agreed to.

[The Secretary then read the short title of the Bill.]

Khan Bahadur Maulvi AZIZUL HAQUE: I beg to move that the Bill be referred to a Select Committee. Before I actually move my motion I wish to make my attitude absolutely clear. In view of the fact that it is a legislation which is for the first time introduced in this Council, I shall be prepared to circulate the Bill for public opinion, with a view to giving an opportunity to the members of the Select Committee of knowing the views of the public provided that is done within the 15th of November. I do not at this time wish to take up the time of the House except to make a very brief remark about this Bill. The object of this Bill is to place a definite check on usury and to give certain powers to the civil court so that the civil court may not be utilised for the purpose of enforcing certain extortionate transactions between the money-lenders and the debtors. This matter was brought to the attention of Government from time to time, but I think in 1899 certain provisions were made in the Indian Contract Act by which the civil courts were given certain powers over these transactions. But unfortunately that clause had no effect. It was not till 1918, that is to say long after the English Usury Act was passed, that the legislature in India at the instance of the executive Government passed the Usurious Loans Act. When the

Banking Enquiry Committee was appointed it was one of its terms of reference that in every province an inquiry should be made as to what has been the effect of the operations of the Usurious Loans Act. In Bengal the Provincial Banking Enquiry Committee issued special questionnaires to all District Magistrates for eliciting their opinion and the conclusion of the Banking Enquiry Committee was that so far as Bengal was concerned this law is a dead letter. The Banking Enquiry Committee made certain recommendations, but I do not know what has happened to them as no step has yet been taken to remove the grievance. As I have said the attempts of the court have been frequently baffled because, as has been said by one of the judges, the Chancellor of the Exchequer of a city is the money-lender. It is the recorded opinion of one of the District Judges of Bengal that in a certain city he had to allow an interest at the rate of Rs. 6-4 per mensem. There is another opinion in which he said that there he had to pass a judgment allowing interest of Rs. 4,000 on a principal of Rs. 300. I will not multiply instances, but these are the recorded instances which came to the notice of the Bengal Provincial Enquiry Committee, even though there are certain parts of Bengal where products are very high, but the rate of interest is higher where the cultivators are better off. Compared with the districts of Western Bengal like Nadia, Jessore and Bankura, in the districts of Mymensingh and Comilla the rate of interest is very high. Whatever might be the productivity of the soil, whatever profit the cultivators make goes to the coffer of the money-lenders. In certain districts we came across instances where the courts allow even 100 per cent. interest. These are illuminating examples, and finding that both the Government of Bengal and the Government of India have actually taken no definite steps, I gave notice of this Bill.

This Bill, as I have explained at the very outset, is modelled on the recommendation of the Bengal Provincial Banking Enquiry Committee coupled with another Act which is known as the Money-lenders Act passed by the House of Commons and ultimately sanctioned by the House of Lords and which has become the law in England.

My recommendations in this Bill are that it should be made compulsory for all money-lenders who are not permanent residents to have their names registered. We all know that in Bengal these people have become almost a terror to all the villagers, and I want to deal with this class of men by the operation of the clauses of this Bill by which these men will have to register their names by paying certain stamp duties.

My second recommendation is that compound interest should be abolished, and I should like to say for the information of the House that the provisions as drafted in the Bill are exactly on the same lines in which the law stands in England to-day.

My third recommendation is that there should be a clear provision which the courts shall follow in such transactions in giving effect to the provisions of the Usurious Loans Act and thereby supplement the provisions of this Bill. I fixed certain maximum rates of interest beyond which the court will not allow realisation of extortionate rate of interest. There are certain difficulties as regards information in connection with loan. I do not know what information they get at present as regards loan. There are also other clauses by which habitual theft, habitual extortion and habitual usury should be made a penal offence. I have also given power to courts to take tender for money for loans. These are the salient features of the Bill. We, the representatives of the people, should do something at least to save the agriculturists. In other countries agricultural finance is a very important power for Government activities. Unfortunately nothing has been done as yet in this country. With a view to accelerate that, I gave notice of this Bill and I must thank the Hon'ble Mr. Reid and you, Sir, for giving me facilities to move this Bill and I must publicly acknowledge it. I formally move that the Bill be referred to a Select Committee consisting of—

(*1*) the Hon'ble Member-in-charge of the Judicial Department;

(*2*) the Secretary to the Government of Bengal, Judicial Department;

(*3*) Khan Bahadur Muhammad Abdul Momin;

(*4*) Mr. Narendra Kumar Basu;

(*5*) Dr. Naresh Chandra Sen Gupta;

(*6*) Khan Bahadur Maulvi Alimuzzaman Chaudhuri;

(*7*) Maulvi Tamizuddin Khan;

(*8*) Maulvi Abul Kasem;

(*9*) Mr. A. F. Rahman; and

(*10*) the mover,

with instruction to submit their report within sixty days from the date on which this motion is carried in Council and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

MUNINDRA DEB RAI MAHASAI: Mr. President, Sir, I rise to support the motion moved by my esteemed friend.

The chronic indebtedness of the peasantry of Bengal is becoming more and more acute year after year. The present serious economic condition of the country has helped to worsen the situation. The time has come when Government cannot look upon the situation with complacency. The condition of the peasantry has become a matter of

serious concern and can no longer be brushed aside. Apart from the present unprecedented economic crisis, improvidence, ignorance and litigation were the chief factors which have contributed to their indebtedness. The high rates of interest have hastened their ruin. The Usurious Loans Act have hopelessly failed to give them any relief whatsoever. The cultivating classes were the mainstay of an agricultural country—the real prop on which rested the social structure. That important class is fast disappearing and their place is being taken by the village money-lenders. Occupiers of agricultural holdings are turning into mere serfs and daily labourers. The prosperous farmer is becoming the hewer of wood and drawer of water in his own holdings under the unscrupulous *mahajans*. The poor and ignorant agriculturists were being crushed down under the heavy load of indebtedness. I think their salvation lay in the lifting of the veil of ignorance with which they are surrounded, to arouse in them economic consciousness, to give visual instruction on the dangers of contracting debts, to inculcate in them the principles of co-operation and to afford all sorts of facilities in the formation and management of co-operative banks among themselves. It was high time for the Government to intervene and lighten the load of their indebtedness by lowering the rate of interest chargeable by the money-lenders. I should like therefore to commend to this House the Bengal Money-lenders Bill of my esteemed friend, the Khan Bahadur of Nadia, which is a very welcome piece of legislation. Shylocks were not wanting all over the world even in this civilised age. They have become more clever than the Shakespearian days. They first suck the life-blood and then demand the pound of flesh, and outwit the modern Portia or her brothers in the profession. The laws afford little relief to the poor debtor. The facts placed before the Banking Enquiry Committee, I think, were sufficient to bestir the Government to move in the matter. I should like to ask them to do something for the real benefit of the poor agriculturist. The Usurious Loans Act is in operation for more than a decade. It gave discretionary powers to the courts to reduce the rate of interest in case of excessive hardship. The object of the Act was no doubt laudable, but in practice most of the courts showed unusual leanings towards the capitalists and the result has been disastrous. The Act has failed to achieve the end it had in view. The reduction of the rate of interest can no longer be left to the discretion of the presiding officer. The maximum should be fixed within whose bounds discretionary powers may be used. It may be urged that the money-lenders risk their money in loans and sometimes suffer heavy losses. They charge high rate of interest only to recoup such losses. Unless some safeguards are provided they will hesitate to afford loan facilities to the agriculturists in the time of dire distress. I do sympathise with the *mahajans* in their difficulties, but they should remember the popular saying "No risk, no gain." The Co-operative

Department, if they are so disposed, can do something to ease the situation and better the lots of the debtors, but, Sir, I do not expect much from them. Sir, those responsible for the furtherance of the co-operative movement have failed to make much headway owing to lack of youthful vigour and enthusiasm which characterised the movement in the West. It was more or less a lifeless department, lacking in the very essentials which make for real co-operation. *Mamuli* work with little or no initiative cannot further a movement fraught with immense possibilities. The benefit of co-operaton should be brought home to the agriculturists by propaganda, not in a mercenary but in a missionary spirit—not with cut and dried officialism, but in a spirit of service to humanity. The Government posed as the guardians of the interests of the dumb millions, but pray what have they done to put their professions into practice? By an overwhelming majority a cut motion relating to the repeal of the Usurious Loans Act and its replacement with an Act on the lines of the English Money-lenders Act was carried by this House over a year ago. May I ask, Sir, has any action been taken thereon? This showed their callous indifference to the real interests of the people. However, we should try once again to impress on them the urgent necessity of early enactment in the interests of the agriculturists who are on the verge of ruin. They must be saved. I should appeal to all sections of the House to unite and make it a common cause to save the dumb millions from their degradation to perpetual serfdom. In the name of humanity, in the name of all that is good and great, I fervently appeal to you to save the peasantry of Bengal from extinction. Remember the fateful words of the poet:—

"Ill fares the land, to hast'ning ills a prey,
Where wealth accumulates, and men may decay:
Princes and lords may flourish, or may fade;
A breath can make them, as a breath has made;
But a bold peasantry, their country's pride,
When once destroy'd, can never be supplied."

5-30 p.m.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I rise in support of the motion for circulation of the Bengal Money-lenders Bill for eliciting further public opinion, and in doing so I beg to point out that if money-lenders as a class are a party to this transaction—I hope they are—then at any rate they should be consulted; and we do not know their opinion as yet. If anybody here thinks that in villages, in the *mufassal* money-lending business, in rural areas, and for agricultural purposes can be effected without the money-lenders, then let

this Bill be passed into law? I have no objection, and the day when this Bill will be passed into law the very next morning the *raiyats* will require a fresh loan; where would they go? Not to the mover of this Bill, not even to any member of this House as none of us represent the village money-lenders, but to whom? To the money-lenders. And what do we expect to be the reply of the money-lenders? The reply would be—no. Then, Sir, what is the remedy? I see no remedy. This drift would mean a great disaster, the nature of which many of us here cannot dream even. The law which does not go into the root of the evil is a law of doubtful good; and the law which the present Bill proposes does not touch the fringe of the evil. I mean the heavy agricultural debt of Bengal. It is patchwork which widens the gulf between the *raiyats* and the money-lenders. That is certainly no evil by itself. But it is decidedly and positively harmful when it stops the hands of the money-lenders on account of many and varied and vexatious conditions of the Bill of doubtful utility to the agriculturists, and at the same time does not compel the Government to meet the situation by opening additional rural banks on the basis of land mortgage or other co-operative securities. The Government are playing with this problem for the last 25 years and have failed, I may be pardoned to say.

It is a very short-sighted Bill. It does not go deep into the root of the matter. I mean our agricultural debt whose exact amount we do not know even. Neither it deals with the problem comprehensively and courageously. And it suggests nothing constructive and far-reaching.

Sir, pin-pricks to the money-lenders will not solve the problem. It is already too late. However largely one may draw from the English Money-lenders Act, 1927, that will be of no help at this crisis. Things are taking shapes in the distant *mufassal* villages which we cannot imagine even. And, Sir, we have not many experts in the subject among us. So I suggest that this Bill should go for circulation for eliciting further public opinion as we have not heard both sides as yet.

Babu SATYENDRA NATH ROY: Sir, I move that the Bill be circulated for the purpose of eliciting opinion thereon. The hon'ble member in charge of the Bill said that he was willing to accept the proposal for circulation for eliciting public opinion by the 15th November; so with your leave I should like to change my amendment by substituting "15th November" for "31st December."

Khan Bahadur Maulvi AZIZUL HAQUE: I accept the amendment.

The Hon'ble Mr. R. N. REID: Sir, Government have every sympathy with the purpose underlying this Bill; but they consider that it is a case which requires circulation rather than reference to a select committee and they are therefore prepared to support the motion for circulation for eliciting public opinion by the 15th November. It is a new subject for a provincial legislature and it is a subject on which there are obviously many differences of opinion, and therefore, it is a measure on which before proceeding further Government would like to obtain the opinions of the public and public bodies as well as of those of their own officers. It contains provisions, for instance, to fix certain rates of interest anything above which will be considered to be usurious: that alone is a very contentious point on which opinions are bound to differ, and one knows they do differ. Then again, there is the question of registration of money-lenders which affects numerous persons, many of whom are probably not subjects of British India. Under the circumstances it seems to be premature to refer the Bill to a select committee and therefore Government think it right to support the motion for circulation.

The motion that the Bengal Money-lenders Bill, 1932, be circulated for the purpose of eliciting public opinion thereon by the 15th November, 1932, was then put and agreed to.

The motion of Khan Bahadur Maulvi Azizul Haque therefore failed.

Mr. PRESIDENT: Gentlemen of the Council, our labours are closed so far as the present session is concerned. It has been, perhaps, the longest on record since this reformed Council has been called into existence. The time has now come for us to depart and I feel a wrench within me to say "good-bye" to you all, because we have been together for such a long time, doing important works in such perfect harmony. Work is a great cement. But I look forward to the time when we shall meet again to transact together the King's business and the people's business. I wish you all Godspeed in your respective spheres of activity until we reassemble here. I thank each and every one of you for all your kindness towards me and for your uniform courtesy to the chair.

Prorogation.

Mr. PRESIDENT: I have it in command from His Excellency the Governor to announce that the Bengal Legislative Council stands prorogued.

APPENDIX A

Unveiling of the portrait of the Right Hon'ble Sir Francis Stanley Jackson, P.C., G.C.S.I., G.C.I.E., in the Council Chamber at the Council House, on the 5th September, 1932, by His Excellency the Right Hon'ble Sir John Anderson, P.C., G.C.B., G.C.I.E., Governor of Bengal.

[At 2-15 p.m., His Excellency the Governor entered the Council Chamber with the Hon'ble the President and at the request of the Hon'ble the President took his seat on the Presidential Chair, the Hon'ble the President being seated on His Excellency's right.

There was a large attendance of members and the visitors' galleries were crowded with ladies and gentlemen, representing different sections of the public.]

The Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, Kt., of Santosh: Your Excellency and gentlemen, I deem it a privilege to open the proceedings of to-day's ceremony. As one who came in close contact with Sir Stanley Jackson during his eventful five years in Bengal—one who had opportunities to study him from close quarters and was deeply impressed by his character and personality—I feel proud to associate myself with this function. It is also my proud privilege to extend, on behalf of the members of the Bengal Legislative Council and on my own behalf, a hearty and respectful welcome to his distinguished successor, who brings with him a reputation that has already given rise to high hopes and expectations in Bengal. May those hopes be realised and may peace, contentment and prosperity follow in the wake of the new administration, leading to political, economic and intellectual advancement of our people. Sir, we are grateful to you for having come in our midst this afternoon to perform a ceremony to which we have been looking forward with so much eagerness. It is no wonder that we should attach great importance to the function—it is no wonder that it evokes within us joy and enthusiasm; for, there is no doubt that our wish to honour Sir Stanley Jackson and to perpetuate his memory owes its origin to the esteem in which he is held by representative Bengalees and Britishers who live in Bengal as their fellow citizens. Sir Stanley has ceased to be the Governor of Bengal, but he has not ceased to occupy a high place in the heart of Bengal. Apart from his beneficent administrative

activities, and measures, his philanthropic and humanitarian works of permanent value, in accomplishing which he received characteristic help from that gracious lady whom God united with him as the partner of his life, are sure to keep alive his memory in Bengal and the impressions which his genuine solicitude for the welfare of her people created in their minds are sure to prove to be ineradicable. A sportsman of international fame, he played all his games as a Governor of Bengal with uuerring judgment and conspicuous ability. His character and sincerity, courage and sagacity inspired confidence in the minds of all. His imagination and deep insight into human character gave him a clear vision, to visualise things in their true perspectives. He had in him a large fund of sympathy, which is a universal solvent, and with the help of that oftener than not he succeeded to conquer obstacles which appeared to be unconquerable and to reconcile the irreconcilable. His firmness combined with his keen sense of justice was a great asset to him. The courage and determination with which he set his helm on the right course in the face of great dangers and his judicial temperament, which remained unruffled in the midst of bewildering excitements that followed in the wake of a stormy transition proved the mettle in him. On the other hand his genuine intention to foster the legitimate aspirations of the people who were committed to his care and to guide them in their onward march with the progressive nations of the world, endeared him to them. I am sure, Sir, it will afford you inward satisfaction to unveil the portrait of such a man. I am also sure, Sir, that the protrait, which has been painted by a talented artist, Mr. Jaladhi Mookerjee, a grand son of the late Maharaja Sir Jyotindra Mohan Tagore, will please you. In his artistic work, the gifted artist, in my opinion, has been able to bring out in bold relief some of the characteristic features of Sir Stanley's expression with remarkable success. It may interest Your Excellency to know that Mr. Mookerjee studied art, specially portrait painting, for four years under the late Mr. James Archer, the then President of the Scotch Royal Academy, when he visited India in 1884. Mr. Mookerjee then went to Europe and visited most of the famous galleries there and had the privilege of studying art with the late Mr. Sargent in his studio. It may also interest you, Sir, to know that the same artist is the author of a striking life-like portrait of the Hon'ble Lady Jackson which now adorns a prominent wall of the new magnificent building of the Victoria Hospital in Darjeeling, which owes its existence to that gracious lady. With your leave, I will now ask you, Sir, to unveil the portrait of the Right Hon'ble Colonel Sir Francis Stanley Jackson, P.C., G.C.S.I., G.C.I.E., ex-Governor of Bengal, which has been presented by the members of the Bengal Legislative Council, who made ready response to my appeal for funds for this purpose. I hope and trust that it will find a lasting place in this Council House to remind us and those who will come after us of one whom Bengal will always love to remember and remember to love.

HIS EXCELLENCY the GOVERNOR: I must first of all thank you, Mr. President, for the kindly references which you have just made to me personally. I am also very grateful for the opportunity which you have afforded me of taking part in to-day's proceedings. Though I fully recognise that this pleasant ceremony forms no part of the official proceedings of the House, I would fain regard it as of happy augury that my first appearance on the floor of this House should chance to be in connection with a tribute of admiration and affection to my predecessor in office.

In the interesting speech to which we have just listened the President, with the eloquence for which he is justly renowned, has unfolded the history of the scheme leading to the unveiling of this portrait. He has told you of the ready response made by all sections of this House to his appeal for funds. I notice that almost the last time that Sir Stanley Jackson was in this House—on the occasion of the unveiling of a portrait of the late Maharaja Bahadur Kshaunish Chandra Ray of Nadia—he sounded a note of warning on the subject of pictures in Parliament. "The privilege," he said, "of having one's memory perpetuated by a portrait within the precincts of a Parliament House will, I do not doubt, be jealously guarded." That warning was, I am sure, well timed; but if any one, not himself a member, ever deserved to have his memory perpetuated in this building, I venture to say that person is Sir Stanley Jackson. I have not in mind merely the fact that during his term of office the project for the new Council House came to maturity and that he both laid the foundation-stone and presided at the opening of this beautiful building. What I would stress rather is that Sir Stanley, true Parliamentarian as he was, took always the keenest interest in the work of this Council, in your debates, in your procedure and in all that appertains to the dignity and efficiency of the House. To mention one point alone—I can say without fear of contradiction that it was to his interest mainly that you owe the establishment of your Legislative Council Department as a separate and self-contained administrative unit—a development to which you attach, I believe rightly, the greatest importance.

This is not the time nor am I the person to attempt to assess the position of Sir Stanley Jackson among the rulers of Indian Provinces. And addressing this House I am keenly conscious of the fact that it would be an impertinence for me, who met him only on the day of my arrival here, to speak at length to you of Sir Stanley Jackson, the man. I have, however, been in Bengal long enough to realise the affection and regard which, despite the difficulties—political and financial—with which his administration had to contend, he inspired among the many, drawn from all communities and classes, to whom his wide interests and human outlook appealed. As a commentary both on his aims and

on his achievements I feel I cannot do better than remind you of a promise which he made on the very first occasion that he addressed the Bengal Legislative Council. "My sole aim," he then said, "is to do my duty fairly and justly towards Bengal and its people." If that was the ideal with which he entered upon his term of office as Governor, I believe the verdict will be that he succeeded beyond his ambition, for to fairness and justice he added sympathy and an understanding heart. A sportsman and a gentleman in the true sense of those much misused terms, a friend to old and young alike, as man and as Governor he "played the game". It is no ignoble record.

With great pleasure I now unveil the portrait of Sir Francis Stanley Jackson, lately Governor of Bengal.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Your Excellency, on behalf of the members of the Legislative Council, it is my privilege to offer you, Sir, our sincerest thanks for the trouble you have taken to come here this afternoon and to unveil the portrait. As Your Excellency has observed, it is a matter of great satisfaction to us that your first visit to the Legislative Council should be in connection with a function, I would rather say a ceremony in which, we, the members of this House—Indians and Europeans—are interested more as friends and admirers of Sir Stanley Jackson rather than as members of the Legislature. We do sincerely hope that your Excellency's acquaintance with us thus begun will soon deepen into friendship with individual members of this House. We offer you our sincerest thanks for your presence here.

[His Excellency the Governor then left the Chamber accompanied by the Hon'ble the President. The portrait was then reviewed by those present.]

APPENDIX B

Proceedings of a luncheon party organised and attended by official and non-official members of the Bengal Legislative Council, in honour of the Hon'ble Raja Sir Manmatha Nath Ray Chaudhuri, Kt., of Santosh, President, Bengal Legislative Council, on the 17th August, 1932, to mark the members' appreciation of his services as President and in connection with the creation of a separate Council Department.

Proposing the toast of the guest of the afternoon, **the Hon'ble Sir PROVASH CHUNDER MITTER** said: I consider it a great privilege and a pleasure to be called upon to preside over this luncheon party this afternoon. It is a pleasure all the more because the luncheon is in honour of an old and cherished friend of mine, the Hon'ble Raja of Santosh. Apart from my old friendship with the Raja at a time when he was a newcomer to politics, we had the proud privilege of belonging to the same political party and I welcome him as an old colleague in the political field. I feel proud that to-day one of the members of my own party occupies the position of the President of the Legislative Council and I feel still more happy at the thought that the Raja has, by his conduct in the Chair, won the esteem and confidence of all parties.

I believe that it was some six years ago that he was first called upon to discharge the duties of his present high office at a time, when, perhaps, the Legislative Council was a little more turbulent than it is at present. Even in those circumstances, the Raja was able to command the esteem and confidence of all parties including one party which was more critical of his conduct in the Chair. (Applause.) As a result of such fair and impartial discharge of his duties, when the time came for re-election, he was elected President again by the unanimous vote of the House. (Applause.) I regard that event as a distinct landmark in the evolution of Parliamentary institutions in this country. You all know the tradition of the House of Commons that the Speaker is above party and that he is re-elected time after time. Let us hope that in the future too, when we are going to have an experiment in democracy on a larger scale and which I hope will prove a success, the tradition of the British Parliament will be repeated and that we shall have the Raja of Santosh as our President time after time without controversy and by the unanimous acceptance of all parties and groups of the future Legislature of this province. (Applause.)

The Raja is so well-known to you all that it is unnecessary for me to speak more about him. I will, however, refer to one matter, namely, that by his energy and persistence, the Raja has succeeded in creating a separate department for the Legislative Council. This is a matter about

which, you members of the Council were also keen and about which, I may add, the Government were equally keen. The fact that in these days of great financial stringency the Raja has succeeded in carrying out an important reform which is the cherished desire of you all, is no mean achievement either on his part or on the part of those members of the Government whose duty is to hold the purse-strings of the taxpayers.

I now ask you to drink the toast of our guest—the Hon'ble Raja of Santosh.

(The toast was received with acclamation.)

Babu JATINDRA NATH BASU, Leader of the Liberal Party, said: I have great pleasure in supporting the toast you have so ably proposed. You have referred to the great experience of our President in public life which accounts for the tact and ability with which he has been able successfully to handle delicate and difficult situations that often arise in the Council. He has been attempting ever since he was first elected to the Chair of the House to have an independent Council Department instead of the work of the Council being an appendage to the Legislative Department as has been the case so long. He has now succeeded and we congratulate him and ourselves on the great success that he has achieved.

I have already referred to his great success in handling difficult situations. About two days ago he handled a situation in the Council which, I say, has been handled with greater success than Mr. Ramsay Macdonald's success in handling the communal award.

We know how attempts had been made during the last two years to make the two communities come to an understanding. The Round Table Conference tried and it failed in spite of the strenuous endeavours of the Prime Minister to bring about a mutual understanding. But the Raja Sahib succeeded where others failed. When two days ago a situation had developed which, if there had been delay would probably have ruined the prospects of a settlement between the two communities for a long time to come. If, instead of one hour, the Raja Sahib had allowed a day, the result would probably, have been different. We are all grateful to the Raja for the considerate manner in which he has handled questions which have come up before him and for the admirable and impartial manner in which he has dealt with the points of order which have come up in the course of debates in the Council.

Maulvi ABUL KASEM, on behalf of Moslem members, said: As the oldest and seniormost member of this House, I feel it my duty and privilege to associate myself with the toast. Sir Provash has reminded us that the Raja belonged to the same political party to which he belonged and that he was a colleague of his in the political field. I will take you back a little in history. I remember the day when my old leader, the late Sir Surendra Nath Banerjee discovered in our guest of to-day a

man of potential genius in the political field of India and having discovered him, he called upon us all to support him. That Sir Surendra Nath was right in the choice of this man will be proved from the story which I am going just now to tell you. At the Lahore Congress many years ago, the Raja delivered a speech, when he was no more than a mere boy, which made men like Charles Bradlaugh remark that here was a man who had a future before him and that he would make a name in the history of India. (Applause.) Sir Surendra Nath's prophecy has come to be true and to-day we congratulate ourselves on having as our President a man of the Raja of Santosh's capacity and personality. At the same time, I cannot but feel regret that what the Legislative Council has gained, the people of Bengal have lost in not having his (the Raja's) services in a more active capacity than at present. I hope that the time will come when we will have the privilege and pleasure of his services in a more practical manner. I will only say that we, the present members of the Legislative Council, and those who will follow us, will certainly desire that the Raja should continue to preside over the deliberations of the Provincial Legislatures. Nay, I will go further and say that the people of Bengal would like that one day the Raja should govern them.

Khan Bahadur Maulvi AZIZUL HAQUE, on behalf of the Praja Party, said: I am tempted to give a long speech but I resist as the Chairman (Sir Provash) has already given a hint that our services will soon be required in the other chamber. I will, however, say this much that recently I had occasion to watch the proceedings of the various Legislative Councils in India and I can honestly say that no other Council is so fortunate as we are in its President. In dignity and serenity of temper and the capacity with which he deals with situations which so often spring up in the Council—very often due to our own action—the Raja makes an ideal President. (Applause.)

Mr. W. H. THOMPSON, Leader of the European Group, said: To-day's function reminds me of a day in the Council when the Raja did not come and as the Deputy President was also absent, my friend Sir Lancelot Travers was called upon to occupy that exalted seat. Judging by his obvious signs of strain which Sir Lancelot showed on that occasion, I think that there must be something in the job and that perhaps it was worth paying for all the year round. (Laughter.)

(Mr. Thompson then paid glowing compliments to the Raja for his services as the President of the Council.)

Babu SATISH CHANDRA RAY CHOWDHURY, on behalf of the Nationalist Party, said: The landholding community of Bengal has made the greatest contribution to the successful operation of the parliamentary system of Government in the province by allowing Raja Sir Manmatha, one of their representatives, to occupy the Chair.

Babu JITENDRALAL BANNERJEE, a prominent Nationalist member of the Council, who could not attend, sent the following letter to Khan Bahadur Muhammad Abdul Momin to be read out at the luncheon party :—

"Dear Mr. Momin,

An eye badly inflamed keeps me confined at home and prevents me from joining in your pleasant function and sharing in the privilege of paying tribute to the Hon'ble the Raja Sahib of Santosh.

I think there are two points in respect of which we score decisively over every other Legislative Council in India. We have the best President of them all; and perhaps though I am not quite sure of this point—we have the most beautiful Legislative Chamber of all. There may be doubts about the second; but there are none about the first.

I have been a member of the House quite as long as the Raja Sahib has been the President and I can distinctly remember some difficult and strenuous times through which he has had to pass. But whatever the difficulties may have been, he has always come away with flying colours through them all; and at the end of the day's bout we have always found him first at the post.

As a member slightly given to talking (I wonder if you have noticed this fault in a friend), I have come in conflict with the Chair as often as anybody else: but there has been no gall in the Raja's chastisement and so whatever clashes of will and temperament there may have been they have left no bitter taste in the mouth. The promptness and clarity with which he gives decisions, the geniality with which he administers occasional rebuff, the firm yet gentle touch upon the rein with which he drives a none too docile team, and the grace, suavity, urbanity and dignity with which he occupies the Chair, these fill my heart with warm feelings of admiration and give me additional reason to be proud of the race to which both you and I belong.

The Raja Sahib's latest and greatest success has been in bringing about the separation of the Council and the Legislative Department—a separation which the House had long desired, but which could not have been effected so soon or so smoothly without his unbounded tact and tireless tenacity of purpose.

Wishing the best of health to the Raja Sahib and the assembled company of guests.

I remain,

Yours sincerely,

JITENDRALAL BANNERJEE."

216, Cornwallis Street, Calcutta.
The 17th August, 1932.

The Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, Kt., of Santosh: Mr. Chairman and gentlemen: Human psychology is intricate; it is very difficult to follow it out in all its windings. But it is, perhaps, indisputable that nothing touches human nature more quickly and more effectively than expressions of sympathy and goodwill; more so when these indicate one's approbation of another's conduct and activities. Believe me that the sincerity and the marrow of my soul reach my words when I say that I am profoundly grateful to you for this friendly demonstration and for the very warm felicitations of your spokesman. The presence of almost all the members of the Council—Europeans and Indians and that of all creeds—here clearly shows that I have been able to rule at least myself if not the House over which I have been called upon to preside. It shows that I was able to rub out from the tablet of my mind the impressions of my own political convictions to hold the scale even between you all. It also shows that, although powers are intoxicating I did not lose my head, that I never forgot the source from which those powers were derived, that I always remembered that you were the fountain head of those powers. (Applause.) You very generously recognise that in the midst of raging controversies, sensational debates and even noisy wordy duels I was able to catch the whispers of the conscience which is the pulse of reason. I may assure you that it will be my constant endeavour to do so in the future. In fact I feel that God stood by me and gave me strength during all these six years to set my helm upon the right course of tolerance and impartiality.

You have very generously referred to my humble services in connection with the separation of the Council Department from the Legislative Department. I may tell you that this much-needed reform would not have come now if His Excellency Sir John Anderson had not taken a very keen and almost personal interest in the matter. I know it for certain that his action has thrilled you through and through and I hope you will agree with me when I say that His Excellency's name will go down to posterity for giving Bengal an independent and self-contained Council Department to make its own history, unfettered by the trammels of another department of the Government in which it was so long merged without an identity of its own. I must also acknowledge, Sir, your helpful tolerance in connection with my scheme of separation which was designed to rob you of some of your powers. In any case, I venture to predict that a very bright future lies before this new department. I am confident that in the fullness of time it will be able to give powerful help to the Council to enable it to function with that speed, precision and efficiency without which a legislative body of its kind cannot aspire to be a potential factor or a live force in the constitution of a country. True it is that your President has always been an independent authority and did not even owe allegiance to you, Sir, as the head of the Legislative Department (laughter), but it is undeniable that he was hitherto like

a worker without tools—he will now have in his hands a definitely useful and vital instrument to work with for the benefit of the Council, and its members in their onward march. Perhaps, we have not got all what we wanted but we have this satisfaction that we have got enough to make a fair start and that the claims of a higher order, even though they be not realised, are in themselves valuable. Besides, I have no manner of doubt that those too will one day be fulfilled. I am, therefore, prepared to look forward hopefully to the future. All delays are unpleasant but oftener than not we are wiser for it. I believe in patience. It is a great virtue—if you have patience you can compass anything. It has always been my motto: "Be sure you are right and then go ahead."

I shall say no more. During the last six years I have talked very little and although I have often violated that rule of conduct outside the Council Chamber, I must recall to my mind on this occasion the saying of a great thinker, "While you talk think that you are making your will—less words, less litigation." (Laughter and applause.)

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Bill, Bengal Suppression of Terrorist Outrages, 1932 : 48.

Vaccine Depot

Number of Muhammadans employed in : (Q.) 177.

Wedderburn, the Hon'ble Mr. J. A.

Newly formed railway land at Faridpur : (Q.) 14.

Wordsworth, Mr. W. C.

Bill, Bengal Motor Vehicles Tax (Amendment), 1932 : 199-200.

Working hours of professors and lecturers in colleges : (Q.) 167-168.

Appendix A.

Unveiling of the portrait of the Right Hon'ble Sir Frahcis Stanley Jackson, P.C., G.C.S.I., G.C.I.E.—

Governor, His Excellency the : iii-iv.

Ray Chaudhuri, the Hon'ble Raja Sir Manmatha Nath, of Santosh : i-ii.

Roy, the Hon'ble Mr. Bijoy Prasad Singh : iv.

Appendix B.

Proceedings of a luncheon party organised by official and non-official members of the Council, to mark their appreciation of the services of the Hon'ble the President and in connection with the creation of a separate Council Department :

Bannerjee, Babu Jitendralal, (letter viii.

Basu, Babu Jatindra Nath : vi.

Haque, Khan Bahadur Maulvi Azizul vii.

Kasem, Maulvi Abul ; vi-vii.

Mitter, the Hon'ble Sir Provs Chunder : v-vi.

Ray Chaudhuri, of Santosh : T Hon'ble Raja Sir Manmatha Nath ix-x.

Ray Chowdhury, Babu Satish Chandr vii.

Thompson, Mr. W. H. : vii.

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